

CITY OF CLEVELAND TENNESSEE

PERSONNEL RULES AND REGULATIONS

**ADOPTED BY RESOLUTION
JANUARY 25, 1993**

**(REVISED DOCUMENT CONTAINING ALL REVISIONS THROUGH DECEMBER 11, 2006 AS
ADOPTED BY THE CITY COUNCIL)**

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CLEVELAND CITY GOVERNMENT

SECTION I - PERSONNEL POLICIES

A. PURPOSE AND OBJECTIVES

The purpose of these policies is to establish a high degree of understanding, cooperation, efficiency, and unity among municipal government employees which comes from a systematic application of good procedure in personnel administration, and to provide uniform policies for all employees, with all the benefits such a program insures. The City of Cleveland is an equal opportunity employer and is committed to a moral, ethical, and legal responsibility to insure equitable employment practices regardless of an individual's race, color, religion, national origin, age, gender, disability or political affiliation. It is the policy of the City of Cleveland to insure that all personally identifiable information is held in strictest confidence, properly safeguarded, and the use of such information is limited to valid business, regulatory or legal requirements. (Rev. 6/9/03)

The fundamental objectives of good personnel administration to be achieved by these policies are:

1. To promote and increase efficiency and economy among employees of the City of Cleveland.
2. To provide fair and equal opportunity to all qualified citizens on the basis of demonstrated merit and fitness as ascertained through fair and practical methods of selection.
3. To develop a program of recruitment, advancement and tenure which will make employment with the City attractive as a career and encourage each employee to render the best service.
4. To establish and maintain a uniform plan of evaluation and compensation.
5. To establish and promote high morale among the employees by providing good working relationships, a uniform personnel policy, opportunity for advancement, and consideration for employee needs and desires.

These policies nor any provisions herein are an employment contract or any other type of contract. All employees of the City are employed for an indefinite term. The City of Cleveland reserves the right to change or revise these rules and regulations when such action is deemed necessary by the City of

Cleveland. Procedures for amendment are included in Section IX, Item A. Human Resources Committee and Amendments. Procedures for termination of employment by the City of Cleveland are included in Section VIII-Separations and Disciplinary Actions. (Rev. 6/9/03)

B. PERSONNEL POLICY STATEMENT

It is the policy of the City of Cleveland to apply and foster a sound program of personnel management. The policies of this Municipal government are as follows:

1. EMPLOYMENT AND PLACEMENT

- a. To fill all positions, without undue delay, in accordance with job qualifications and requirements without discrimination as to race, color, gender, age, religion, national origin, disability, or political affiliation.
- b. To establish programs for the promotion, transfer, demotion, dismissal, and reassignment of personnel.

2. POSITION CLASSIFICATION AND PAY ADMINISTRATION

- a. To establish and maintain job descriptions for every position with the descriptions maintained on file with the Personnel Director and Department Head.
- b. To review position descriptions periodically and systematically with the employee to insure currency and accuracy.
- c. To establish appropriate position standards and to group positions in classes with similar standards.
- d. To conduct area wage and salary surveys periodically in order to provide competitive wage and salary scales.

3. EMPLOYEE RELATIONS AND SERVICES

- a. To establish rules and standards governing employee conduct.
- b. To administer a uniform leave program.

- c. To provide employee grievance procedures.
- d. To develop a handbook to inform employees of their responsibilities, rights, and privileges.
- e. To provide and maintain a safe and healthful work environment.

4. EMPLOYEE DEVELOPMENT AND TRAINING

- a. To establish training standards and requirements for all positions.
- b. To motivate and stimulate employees to achieve their highest potential usefulness.

5. RECORDS

To establish and maintain comprehensive and uniform personnel records. Medical records shall be kept in a confidential file separate from the employees' general personnel files.

C. COVERAGE

These rules and regulations shall cover all employees in the City's service, unless specifically exempt by this document, the City Charter and/or the ordinances of the municipality, without regard to race, color, religion, national origin, political affiliation, sex, age, or disability.

All offices and positions of the City government are divided into the classified service and the exempt service. The classified service shall include all regular full-time and regular part-time positions in the City's service unless specifically placed in the exempt service. All offices and positions of the City government placed in the exempt service are as follows:

- 1. All elected officials.
- 2. Members of appointed boards and commissions.
- 3. Consultants, advisers, and legal counsel rendering temporary professional service.
- 4. The city manager and city attorney.(Rev. 9-9-96)
- 5. The city prosecutor.

6. Independent contractors.
7. Persons employed by the City for not more than three (3) months during a fiscal year.
8. Part-time employees paid by the hour or the day, and not considered regular.
9. Volunteer personnel appointed without compensation.
10. The city judge.
11. Officers and employees of the Cleveland City School System, Cleveland Utilities and the Cleveland Housing Authority, and all other positions specifically listed as City Council appointees within the City Charter. (Rev. 9-9-96)

D. ADMINISTRATION

These rules shall be administered by each Department Head and the City Manager under the direction of the City Manager, and in conformity with all provisions of Federal and State law, the City Charter, ordinances, resolutions, and any other policies adopted by the City Council which deal in any way with personnel matters. (Rev. 9-9-96)

SECTION II - DEFINITIONS

(RESERVED)

SECTION III - CLASSIFICATION PLAN

A. PURPOSE

The classification plan provides a complete inventory of all positions in the municipal government's service and an accurate description and specifications for each class of employment. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities, and has the same meaning throughout the city service.

B. COMPOSITION OF THE CLASSIFICATION PLAN

The classification plan shall consist of:

1. A grouping of classes of positions which are approximately equal in difficulty and responsibility, which call for the same general qualification, and which can be equitably compensated within the same range of pay under similar working conditions;
2. Position titles descriptive of the work of the class which identifies the class;
3. Written specifications for each class of positions; and
4. Physical standards for performance of the duties of the position.

C. USE OF JOB TITLES

Job titles are to be used in all personnel, accounting, budget appropriation and financial records of the city. No person will be appointed or employed in a position in the city service under a title not included in the classification plan.

D. USE OF THE CLASSIFICATION PLAN

The Classification Plan is to be used:

1. As a guide in recruiting and examining candidates for employment;
2. In determining lines of promotion and in developing employee training programs;
3. In determining salaries to be paid for various types of work;

4. In determining personal service items in departmental budgets; and
5. In providing uniform job terminology understandable by all municipal government officers and employees and by the general public.

E. ADMINISTRATION OF THE CLASSIFICATION PLAN

The Personnel Director is charged with maintaining the classification plan of the municipal government so that it will reflect the duties performed by each employee in the service of the city and the class to which each position is allocated. It is the duty of the City Manager to examine the nature of the classes of positions, to make such changes in the classification plan as are deemed necessary by changes in the duties and responsibilities of existing positions; and periodically to review the entire classification plan and recommend appropriate changes in allocations or in the classification plan itself.

F. ALLOCATION OF POSITIONS

Whenever a new position is established, or duties of an old position change, department heads shall submit in writing a comprehensive job description describing in detail the duties of such a position to the Personnel Director. The Personnel Director shall investigate the actual or suggested duties and recommend to the City Manager the appropriate class allocation or the establishment of a new class. The City Manager may direct that the recommendation be reviewed by outside management consultants. The City Manager shall then approve or change such recommendations.

G. REQUEST FOR RECLASSIFICATION

Any employee who considers his/her position improperly classified shall first submit his/her request to the immediate supervisor who shall review the justification for the request. The Supervisor will notify the Department Head of all requests for reclassification. If the Department Head and Supervisor find that there is merit in the request, the Department Head will obtain approval of the City Manager then forward the request to the Personnel Director. If the Department Head and/or the City Manager find the request is not justified, they shall advise the employee of their decision and also the employee's right to appeal the decision under the grievance procedures.

SECTION IV - COMPENSATION PLAN

A. PURPOSE

The pay plan is intended to provide fair compensation for all skill levels in the classification plan in consideration of ranges of pay for other levels, general rates of pay for similar employment in private establishments and other public jurisdictions in the area, cost of living data, the financial condition of the municipality, and other factors.

B. COMPOSITION

The pay plan for the City of Cleveland shall consist of minimum and maximum rates of pay with intermediate steps for each existing pay grade (skill level).

C. MAINTENANCE OF THE PAY PLAN

The City Manager may direct from time to time that comparative studies be made of all factors affecting the level of salary ranges. Any adjustments found necessary will be made by increasing or decreasing the salary ranges the appropriate number of steps as provided in the basic salary schedule, and the rate of pay for each employee will be adjusted an appropriate number of steps in conformity with the adjustment of the salary range for that class as approved by the City Council.

Under normal circumstances, an employee will progress through the step increases annually, based on satisfactory job performance, and based on availability of funds and approval by the City Council.

D. USE OF SALARY RANGES

Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same skill level, and in providing incentives to employees.

The minimum rate established for a class is the normal hiring rate except in those cases where unusual circumstances (such as inability to fill the position at the hiring rate or exceptional qualifications of an applicant) appear to warrant employment of an individual at a higher rate in the pay range. Any Department Head desiring to appoint an applicant to start at a salary above the minimum must submit a written justification through the Personnel Director for approval by the City Manager. Such appointments shall be made only in exceptional cases as decided by the City Manager.

E. PAY FOR PART-TIME WORK

Part time and/or temporary employees will be subject to separate pay rates other than the classification/compensation plan approved for full time employees. Part time

and/or temporary employees may be placed in the compensation plan at the entry level of the pay grade of the job duties they are performing if they are experienced and/or otherwise qualified for the position. These employees will remain at the entry level step with no further step increases in subsequent years, however, they will receive any cost-of-living increases given in subsequent years. (Rev. 6/30/03)

F. HOURLY RATES

In accordance with the Fair Labor Standards Act (FLSA), no employee whether full-time, part-time or probationary, shall be paid less than the federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations. Employees paid on an hourly rate basis are paid for all time actually worked.

G. RATE OF PAY WHEN POSITION IS CLASSIFIED OR RECLASSIFIED

A position that has been classified or reclassified upwards shall have the salary range set accordingly. When a position is reclassified upwards, the employee in that position shall continue receiving their current rate of pay unless that rate of pay falls below the minimum rate of the new classification. In such cases the rate shall be the minimum rate for the new skill level.

A position which has been classified or reclassified downward shall have the salary range set accordingly. When a position is reclassified downward, the employee in that position shall continue receiving their current rate of pay unless that rate of pay falls above the maximum rate of pay of the new classification. In such cases the rate shall be reduced to the maximum rate of pay for the new classification.

Regardless of the provisions in paragraph two of this subsection, any employee who is currently paid more than the maximum rate or pay for his position in the Classification and Compensation Plan made effective on July 1, 1997, shall not have his rate of pay reduced. Nor shall his rate of pay be frozen without a COLA at the current level even though it exceeds the maximum rate of pay for that position in the Classification and Compensation Plan.

H. NEW EMPLOYEE INCREASE INTERVALS

If hired on January 1, or thereafter, an employee will receive a cost of living increase, if one is provided, on the following July 1, but shall not be eligible for a step increase until the second July 1 following their employment. Each increase will become effective subject to availability of funds and satisfactory job performance.

In the event a step increase is provided but no cost-of-living increase is provided, employees hired between January 1st and June 30th shall receive a prorated share of the step increase after completion of six months of employment. The prorated amounts based on the 3.5% steps in the current classification/compensation plan are:

<u>Hiring Date</u>	<u>Increase</u>
January	1.75%
February	1.50%
March	1.25%
April	1.00%
May	.75%
June	.50% (Rev. 6/30/03)

If hired prior to January 1, an employee shall receive the cost of living increase, if one is provided on the following July 1, and shall be eligible for a step increase on the first July 1 following their employment. Each increase will become effective subject to availability of funds and satisfactory job performance.

SECTION V - EMPLOYMENT

A. APPLICATIONS

The City of Cleveland shall make every effort to attract qualified applicants for various types of positions. In so doing the appointing authority shall prepare and publish a public notice of vacancies when they occur in an officially designated newspaper, at an officially designated site in the City Hall, and at such other sites as may be designated by the City Manager. The Personnel Director will also provide notice of vacancies in alternate media; including taped messages, radio announcements or other methods to ensure effective communication to someone with disabilities.

All applications for employment are received at the Personnel Director's Office and given thorough consideration by the appropriate Department Head. The City of Cleveland exercises a policy of fairness to every person who applies for work, and in cooperation with the supervisor involved, is responsible for the proper selection and placement of persons in various departments throughout the City. The Personnel Director and Department Heads will make reasonable accommodations in the application process to applicants with disabilities making a request for such accommodations.

Applicants may be removed from consideration if:

1. The applicant declines an appointment when offered.
2. The applicant cannot be located.
3. The applicant moves out of the area.
4. The applicant is currently using narcotics.
5. The applicant is found to have been convicted of a felony or a misdemeanor involving moral turpitude as the term is defined by law.
6. The applicant has made a false statement of material fact on the application.
7. The application was not filed within the period specified in the announcement or was not filed on the prescribed form or in a different format as allowed as a reasonable accommodation.
8. The applicant does not possess the minimum qualifications as indicated by the job description for the position.

B. RECRUITMENT BY EXAMINATION

All appointments in the City service shall be made according to merit and fitness and may be subject to competitive examination. All such examinations shall fairly and impartially test those matters that are job related and essential to the duties of the position to be filled.

C. TYPES OF EXAMINATIONS

The examinations held to establish eligibility and fitness for a position may consist of one or more of the following parts as determined by the City Manager. The Personnel Director will make reasonable accommodations in the examination process to applicants with disabilities requesting such accommodations.

1. **Written Test.** This part, when required by job specifications, shall include a written demonstration designed to show the familiarity of applicants with the knowledge necessary for the position for which they are applying.
2. **Oral Test.** This part, when required by job specifications, shall include a personal interview where the ability to deal with others, to meet the public, and/or other personal qualifications are to be evaluated. An oral interview may also be used in examinations where a written test is unnecessary, impractical or as a reasonable accommodation to someone unable to take a written test due to a disability.
3. **Performance Test.** This test, when required by job specifications, shall involve test of performance as would aid in determining the ability and manual skills of applicants to perform the work involved.

The performance test may be given a weight in the examination process or may be used to exclude from further consideration applicants who are unable to perform the essential functions of a specific position when it is determined:

- a. They cannot perform the essential functions due to a disability which cannot reasonably be accommodated;
- b. They pose a direct threat to themselves or others;

- c. They are unable to perform the essential functions due to a temporary condition or disability not protected by ADA.
- 4. **Physical Agility Test.** When required by job specifications, this test consists of job-related tests of bodily conditioning, muscular strength, agility, and physical fitness of job applicants for a specific position. This test may be given weight in the examination process or may be used to exclude from further consideration applicants who do not meet the minimum required standards.
- 5. **Mental Test.** When required by job specifications, the mental test shall include any test to determine mental alertness, general capacity of the applicant to adjust his/her thinking to new problems, or to ascertain special character traits and attitudes.

D. NOTIFICATION AND INSPECTION OF EXAMINATION RESULTS

For entry level positions within the fire and police service an eligibility list may be established and maintained. Applicant access to this eligibility list may require successfully passing one or more of the examinations identified in Section V C. These examinations shall be administered by the Personnel Director and supervision of the respective fire or police department. The eligibility list shall be maintained by the Personnel Director.

Examinations for access to the eligibility list shall be offered at the discretion department head based on frequency of vacancies and the need for qualified applicants in the applicant pool. Eligible applicants obtaining the same score or composite score in the case of a multiple examination eligibility list shall be considered to have the same rank on the eligibility list. Individual names appearing on the eligibility list shall remain in force for no longer than two years. Those individuals whose tenure on the eligibility list has reached two years shall be allowed to participate in the examination next following the expiration from the eligibility list and may or may not be reinstated on the list depending upon the results of their examination(s).

E. ELIGIBILITY

Individuals shall be recruited from a geographic area as wide as is necessary to assure obtaining well-qualified applicants for the various types of employment positions. Recruitment, therefore, shall not be limited to residents of the City of Cleveland or Bradley County. In cases where residents and non-residents are equally qualified for positions that are vacant, the resident shall

receive first consideration in filling such vacancies. All applicants for positions including new hires as well as promotional advancements which require the potential for call-back to respond to emergency situations, such as some public works positions, shall be required to live within fifteen (15) road miles of their work location. All applicants for positions including new hires as well as promotional advancements for the Fire Department and sworn Police personnel must live within thirty (30) road miles from the Main Fire Hall/Police Service Center (Rev. 5/8/06). All current employees covered by these requirements who once meet these distance requirements cannot move beyond the defined areas. If such employees live outside of these two defined areas, they must relocate to within the area before completion of the probationary period (normally six (6) months). This policy shall not in any way affect or change the take-home vehicle provisions in Section VII – MISCELLANEOUS POLICIES, Subsection J, Use of City Vehicles and Equipment. (May, 2000)

F. MEDICAL EXAMINATION OF ESSENTIAL FUNCTIONS AND GENERAL PHYSICALS

Pre-employment

Following a conditional offer of employment, each prospective employee, when required, may be given a medical examination for the essential functions for the position they have been offered and a general physical exam. The cost of the medical examination shall be borne by the City. Any prospective employee who is unable to successfully perform the essential functions tested for in the medical examination shall have their offer of employment by the City withdrawn only if one or more of the following is determined by the Personnel Director:

1. If they cannot perform the essential functions due to a disability which cannot reasonably be accommodated.
2. They pose a direct threat to themselves or others.
3. They are unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act.

Post-employment

All employees of the City may, during the period of their employment, be required by their Department Head and with the approval of the Personnel Director, to undergo periodic examinations to determine their physical and mental fitness to perform the work of the position in which they are employed. This

periodic examination shall be at no expense to the employee. Determination of physical or mental fitness will be by a physician designated by the City.

When an employee of the City is reported by the examining physician to be physically or mentally unfit to perform work in the position for which he/she is employed, the employee may, within five (5) days from the date of his/her notification of such determination, indicate in writing to the City Manager his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice.

In the event there is a difference of opinion between the examining physician and the physician chosen by the employee, a physician shall be mutually agreed upon and designated by the examining physician and the physician chosen by the employee. The third physician's decision shall be final and binding as to the physical or mental fitness of the employee. The municipal government shall pay its physician; the employee shall pay his/her physician and the third physician shall be paid by the municipality.

An employee determined to be physically or mentally unfit to continue in the position in which he/she is employed may be demoted in accordance with these rules or separated from City service only if one or more of the following is determined by the Personnel Director:

1. They cannot perform the essential functions due to a disability which cannot reasonably be accommodated.
2. They pose a direct threat to themselves or others.
3. They are unable to perform the essential functions due to a temporary condition or disability not protected by the Americans with Disabilities Act. (Ref. Section VIII, Item D, Disability)

G. MINIMUM AGE

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

H. TYPES OF EMPLOYEES

1. **Regular Full-Time Employee** (per hour or per month)
- A regular full-time employee is a full-time employee who regularly works a minimum of 30 hours per week (or shifts in the case of fire fighters). A regular full-time

employee is paid either an hourly rate (non-exempt status) or a bi-weekly rate (exempt status) and is subject to all conditions of employment and receiving all benefits. Regular full-time employees serve a six month probationary period, sworn police personnel will serve a twelve month probationary period, during which time they may be dismissed without recourse. (Rev. 6/9/03)

2. **Regular Part-Time Employee** - Regular part-time employees work part-time hours on a regular basis. Part-time employees are eligible for City benefits on a prorated basis according to the actual hours worked (except longevity, retirement, college pay, health and/or life insurance benefits).
3. **Temporary Employee And/Or Part-Time Employee**
A temporary employee is an employee who works full-time but not exceeding twelve (12) months per term of employment and who is paid on a per day or per hour basis. Temporary employees are not subject to all the conditions of employment but shall be fully capable of performing the assigned duties but receiving no benefits except coverage under Worker's Compensation. Individuals who are classified as temporary employees and are hired to fill a regular full-time or part-time position shall begin to accrue benefits on the effective date of regular full-time or part-time appointment.

I. APPOINTMENTS, PROMOTIONS, DEMOTIONS AND TRANSFERS

Pursuant to the City Charter, the City Manager has the authority to appoint, promote, demote, transfer, suspend and remove all employees within the City of Cleveland.

All vacancies in the City shall be filled by original appointment, re-employment, promotional appointment, provisional appointment, flexible assignment, transfer or demotion. Whenever an appointing authority wishes to fill a vacancy, a request for appointment must be submitted to the Personnel Director on the forms prescribed.(Rev. 9-22-97)

Appointments to positions with the City fall into three categories. They are:

1. **Original Appointment** - When a non-employee passes all the tests of employability and is offered conditional employment.

2. **Provisional Appointment** - When the City is unable to fill a vacancy because of an insufficient number of applicants or lack of qualified applicants, the City Manager may authorize the Department Head to fill the vacancy by a provisional appointment. Provisional appointments require the prior approval of the City Manager and no payment shall be made for services rendered by the appointee prior to the appointment.
3. **Emergency Appointments** - The City Manager may authorize the appointment of a qualified person to a position to prevent the stoppage of public business or loss or serious inconvenience to the public. Emergency appointments shall be limited to a period not to exceed ninety (90) days in any twelve (12) month period.

J. PROMOTION AND ADDITIONAL ASSIGNMENT(S)

A promotion is an assignment of an employee from one position to another which has a higher maximum rate of pay, rank and responsibility. Vacancies in positions above the lowest rank in any category shall be filled as far as practical by the promotion of employees. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of effecting an increase in compensation.

When an employee in one classification is promoted to a position in another classification and the employee's current rate of pay is 7% or more below the minimum rate for the new classification, the employee's rate of pay shall be raised to that minimum rate. When the employee's current rate of pay falls either 3.5% below, or falls above the new classification's minimum rate, the employee will move to the step on the new skill level (pay grade) which will result in a 7% pay increase for the promotion. The intent of this subsection is to provide a 7% pay increase for any permanent promotion. This does not affect the flexible assignment provisions in this subsection. (March, 1999)(October 22, 2001)

Any police officer currently serving or hereafter assigned as Master Officer, K-9 handler, Special Response Team member, or Bomb Technician will be compensated for performing these functions as long as they remain in these assignments. These designated positions have not been and will not be considered promotions. The additional pay will discontinue when the officer is no longer performing these additional assignments. The continuation of additional pay in these assignments is contingent on the officer's satisfactory performance of the assigned duty, as determined by the Chief of Police and the continued need for a particular duty. An officer may serve in more than one additional duty

capacity; however, the additional compensation will be granted for only one of the assignments. Compensation for these assignments will be calculated as an additional 3.5% of the officer's current salary grade and step.(Rev.1/28/02)

K. TRANSFER

When an employee desires to transfer from one department to another, it must be agreeable to both Department Heads involved and the City Manager. The transfer of an employee from one position to another without significant change in level of responsibility may be effective:

1. When the employee meets the qualification requirements for the new position.
2. If it is in the best interest of the City.
3. If it meets the personal needs of the employee as consistent with the other requirements of this rule.
4. As a reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job.

An employee who transfers from one City department to another will retain and carry forward all benefits earned or accrued or both as of the date of transfer. As a general rule lateral transfers require no increase in compensation.

L. DEMOTION

A demotion is an assignment of an employee from one position to another which has a lower maximum rate of pay, rank and responsibility. An employee may be demoted for any of the following reasons:

1. Because his/her position is being abolished and he/she would otherwise be laid off.
2. Because his/her position is being reclassified to a higher grade and the employee lacks the necessary skill to successfully perform the job.
3. Because there is a lack of work.
4. Because there is a lack of funds.

5. Because another employee, returning from authorized leave granted in accordance with the rules on leave, will occupy the position to which the employee is currently assigned.
6. Because the employee does not possess the necessary qualifications to render satisfactory service to the position he/she holds.
7. Because the employee voluntarily requests such a demotion and it is available.
8. As a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job.
9. Because his/her position is being reclassified to a lower grade after review of the duties, responsibilities, skills, working conditions and education required to perform the job.
10. As a form of disciplinary action. (Rev. 12/11/06)

When an employee in one position is demoted to a lower position and the employee rate of pay is higher than the maximum rate for the new position, the employee's salary shall be reduced to the maximum rate for the lower position. However, there shall be a minimum of a 7% reduction of pay for all demotions. (Rev. 2/11/02)

M. PROBATIONARY PERIOD

The probationary, or working test period, is an integral part of the examination process, and shall be utilized for the following:

1. Closely observing the employee's work.
2. Securing the most effective adjustment of a new or promoted employee to his/her position.
3. Rejecting any employee whose performance does not meet work standards.

The probationary period for all regular appointments shall be period of six (6) months, except for police which shall be twelve (12) months or until police academy graduation. Department Heads may request a three (3) month extension of any employee's probationary period with the prior approval of the City Manager.

Probationary period shall not exceed twelve (12) months except in cases where certifications may require additional time.

During the probationary period the City Manager shall require the Department Head to report the observations of the employee's work and his/her judgment of the employee's willingness and ability to perform the duties assigned. During the probationary period the supervisor will inform the employee when his/her performance is unsatisfactory and not meeting the probationary test requirements.

A performance evaluation shall be completed at least ten (10) days prior to the expiration of an employee's probationary period. At this time, the Department Head shall notify the Personnel Director if the service of the employee has been satisfactory and whether he/she will continue to employ the individual.

N. SIGN-UP AND BEGINNING WORK REQUIREMENTS

After an applicant has been chosen to fill a job vacancy by the Department Head and has been approved by the City Manager, the new employee shall be required to complete the following documents and forms before beginning work.

1. W-4 form.
2. Signed acknowledgment form from employee handbook.
3. Immigration Control and Reform Act (I-9) form.
4. Provide copy of educational certification, professional license or certificate required per job description.
5. Emergency telephone numbers.
6. Copy of driver's license, if position requires driving a city vehicle.
7. List of dependents as required by COBRA.

O. MOONLIGHTING/OUTSIDE EMPLOYMENT

With written notification of one's Department Head and/or the City Manager "moonlighting" is permissible, provided that there is no conflict of interest or impairment of work performance for the City of Cleveland and the employment does not cast discredit or create an embarrassment for the City. Approval of a second job may be withdrawn for any of the previously stated reasons.

P. WORK DAY/WORK WEEK

Pursuant to the Fair Labor Standards Act, a work week is a regular recurring period of 168 hours consisting of seven consecutive 24-hour periods. Except in the case of non-exempt police and fire personnel subject to the FLSA 28-Day work period exemption, the number of days that shall constitute a work week for regular employment shall be five (5) per week. Schedules will vary in departments as necessary for the smooth operation of the City. A standard work week is scheduled between 12:01 AM Sunday to 12:00 midnight on the following Saturday.(Rev. 3/24/03) Overtime shall not be paid to employees working a 40-hour per week schedule until these personnel have worked 40 hours in the work week.

Non-exempt sworn police personnel (except for clerical, dispatching, and other civilian personnel) shall work a 14-day work period, commencing on June 27, 2001. Overtime shall not be paid until these personnel have worked 86 hours in the work period. (February 26, 2001)

Non-exempt fire personnel (except for clerical, dispatching, and other civilian personnel) shall work a 28-day work period, commencing on February 25, 1995. Overtime shall not be paid until these personnel have worked 212 hours in the work period. For the purpose of calculating hours worked, the four hours included as base pay will be paid at the overtime rate regardless of leave taken. (October 23, 2000)

Q. ATTENDANCE

Punctual and regular attendance is necessary for the efficient operation of the City. Employees unavoidably late or absent from work due to illness or other cause, must notify their immediate supervisor within a time frame established for each department (unless unusual circumstances prevent the employee from making proper notification) explaining the reason for the absence and, if possible, an anticipated time and/or date of return to work. Failure to notify one's Supervisor of absences may result in disciplinary action.

The City Manager may allow a change in hours for an employee, for a defined period of time, when because of highly unusual circumstances he deems it in the best interests of the employee and the City to accommodate the employee's personal situation and ability to continue employment. In making such a determination, the Manager must consider the nature of the work; the impact on the public being served and on immediate co-workers; the impact on the City's ability to have the tasks assigned to the employee completed in a thorough and timely manner; and any financial impact to the City.

If the City Manager grants any flextime to an employee, he shall do so in writing, giving his reasons for the decision. He shall furnish a copy of his decision

to the employee, the Mayor and City Council, the affected Department Head, the Personnel Director, and the Human Resources Committee.(1-23-95)

R. OVERTIME PAY

When it becomes necessary for an employee to work overtime hours, regular employees, part-time employees and temporary employees shall be paid according to the prevailing salary schedule. Overtime work will be compensated in accordance with the provisions of the Fair Labor Standards Act at a rate of one-and-one half the employee's regular rate. Overtime work may also be paid with compensatory time at a rate of one-and-one half times the hours worked in accordance with the Fair Labor Standards Act. Generally, overtime work must be authorized by the Department Head.

Compensatory time must be taken before any Annual Vacation Leave, so that the accrual of compensatory time is minimized. As required by the FLSA, an employee can choose payment rather than compensatory time for any overtime hours worked.

If compensatory time is given, no employee other than those within the fire department can accumulate more than ninety (90) hours of compensatory time. All fire department employees eligible for compensatory time can accumulate no more than one hundred eight (108) hours of compensatory time.

Some job classifications are exempt from the overtime provisions of the FLSA, and therefore employees in those classifications do not earn either overtime pay or compensatory time off. However, the City Manager may authorize some administrative leave for an exempt employee when that employee has worked an excessive amount of additional hours due to an emergency, or a special project or assignment which has been particularly time-consuming. Administrative leave is not compensatory time, and is not a benefit to which the employee is entitled. It is a benefit which is given totally at the discretion of the department head and the City Manager when they feel excessive hours have been required of an exempt employee.

The following job classifications are hereby declared to be exempt from the FLSA overtime provisions as allowed under FLSA regulations (Rev. 1-25-99):

Administration and Finance:

Director of Finance and Administration/City Clerk
Purchasing Agent

Parks and Recreation Department:

Director of Parks and Recreation

Recreation Center/Programs Supervisor
Recreation Center Supervisor
Golf Course Manager

Public Works Department:

Director of Public Works
Deputy Public Works Director
Assistant Public Works Director, Administration
Assistant Public Works Director, Operations
City Engineer
Traffic Engineer
Staff Engineer
Fleet Manager
Urban Forester

Community Development Department:

Director of Community Development
Planner
Community Development Coordinator

Fire Department:

Fire Chief
Fire Deputy Chief
Fire Commander

Police Department:

Police Chief
Police Assistant Chief
Police Captain
Police Lieutenant

City Manager:

City Manager
Human Resources Director
Public Information Officer (Rev. 6/9/03)
Assistant to the City Manager

Exempt employees will be paid on a salary basis and will receive a predetermined amount on a regular basis. Exempt employees' pay will not be subject to improper deductions pursuant to DOL regulations 29CFR Part 541. (Rev. 9/13/04)

S. DRIVING RECORDS

Any employee who is required as a condition of employment to possess and maintain a valid Tennessee driver's or Commercial driver's license, must immediately, upon his/her knowledge of same (prior to reporting for duty the next work day) inform his/her Supervisor should his/her license become denied, expired, restricted, suspended, or revoked at any time during his/her employment with the City. Periodic review of employees' driving records will be conducted by the Personnel Director to assure adherence to this policy.

T. PERSONNEL RECORDS

It is the responsibility of each employee to keep personnel information in his/her personnel file up-to-date by notifying the Personnel Director of any information changes, such as name, address, telephone number, beneficiary, training or course work completed and to provide copies of diplomas or certificates received.

The City shall not be held liable when incorrect withholding, wrong beneficiaries, or loss of employee benefits result from the failure of any employee to keep personnel records current.

U. BUSINESS INTERESTS

No Department Head or Supervisor shall have any financial interest in the profits of any contract, service or other work performed by the City; or shall personally profit directly or indirectly from any contract, purchase, sale or service between the City and any person or company; or personally, or as an agent, provide any surety, bail or bond required by law or subject to approval by the City Council. No City employee shall accept any free or preferred services, benefits, or concessions from any person or company.

No City employee shall enter into a contract with the City, or perform any work or function under any contract with the City, if he has a direct or indirect financial interest in the contract, unless: (1) The contract is awarded through a process that is in compliance with the City's purchasing requirements; or (2) the City Council waives the requirements of this section after making a formal finding that it is in the best financial interest of the City to do so, after full disclosure on the part of the City employee of his direct or indirect financial interest in the contract,

and the City Council's finding and waiver, and the employee's full financial disclosure, is recorded on the minutes of the City Council in open session.

V. NEPOTISM

(1) No member of the immediate family of any elected official of the City, or the City Manager, shall be hired by the City during that official's term of office.

(2) A member of the immediate family of a current employee shall not be hired or promoted if such employment or promotion would result in an employee directly or indirectly supervising a member of the immediate family.

(2) a. For the purpose of this section, immediate family is defined as a spouse, mother, father, legal guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, adopted and foster relationships that can be derived from those named.

(2) b. For the purpose of this section, indirect supervision shall be defined as exercising administrative control through the departmental line of command in the normally established work schedule, of the person directly supervising an immediate family member.

For example, a sergeant and a captain in the police department could be related, as long as the sergeant's lieutenant answers to a different captain in the normal work schedule.

For another example, a lieutenant and an assistant chief in the fire department could be related, as long as the lieutenant's captain answers to a different assistant chief in the normal work schedule.

(2) c. No immediate family member of a current employee shall be hired or promoted without the prior approval of the City Manager, who shall verify that no direct or indirect supervisory relationship will result from said hiring or promotion.

(2) d. Because the hiring of an immediate family member of a current employee within the same department could limit both individuals' promotional opportunities, the Personnel Director shall discuss this thoroughly with both parties before such a hiring decision is made.

(3) This policy shall not be retroactive, and no action will be taken concerning those members of the same family employed in conflict with (1) or (2) above prior to the adoption of this policy on the 23rd day of January, 1995.

W. STANDBY AND CALL-BACK PROVISIONS

- (1) Many City services require some non-exempt personnel to be on standby after normal working hours in order to deal with after-hours calls for services. The City Manager is hereby authorized to allow department heads in the departments listed below to utilize standby pay and call-back pay as listed:
 - a) Animal Shelter: 1 employee paid for 10 hours per week to be on standby for after hours calls. Any Animal Shelter non-exempt employee on standby called back after hours will be guaranteed a minimum of two hours for said call.
 - b) Fire Department: no employees on standby as this is a 24-hour operation. All non-exempt employees of the Fire Department responding to an off-duty call are guaranteed two hours pay at the overtime rate, with additional pay for time after one hour. Exempt employees may also receive this additional pay if they are used in a non-exempt role during such a call-back situation. These provisions are to encourage quick call-back response to major fires.
 - c) Fleet Management Department: 1 employee paid for 10 hours per week (rev. 9/13/04) to be on standby for after-hours calls. Any non-exempt Fleet Management Department employee on standby called back after hours will be guaranteed a minimum of two hours for said call. As further compensation, the employee on standby will be allowed to take home the service truck while on standby duty.
 - d) Police Department: 1 non-exempt detective paid for 10 hours per week to be on standby for after-hours calls. 1 non-exempt sergeant in the SRT when the exempt lieutenant is on annual leave or at out-of-town training, for 10 hours per week (or on a prorated basis if on standby for less than a week). Any non-exempt employee of the Police Department on standby called back after hours will be guaranteed a minimum of two hours for said call.
 - e) Public Works Department: 1 non-exempt supervisor, 1 truck driver and 1 laborer paid for 10 hours per week to be on standby for after hours calls. Any non-exempt employee of the Public Works Department on standby called back after hours will be guaranteed a minimum of two hours for said call.
- (2) The rate of pay for standby hours shall be at straight time. All hours actually worked while on a call back shall be added to all other hours worked during the normal work period, and the rate of pay shall be in accordance with the existing policy on overtime calculations. However, this shall not apply to the Fire Department,

where the call-back pay shall be at the overtime rate in order to assure adequate call-back response in emergencies.

- (3) These provisions do not apply where an employee is already at work and is required to work after the normal shift has ended, or is required to work when another employee does not report due to illness, jury duty, or similar reason. They are to apply only to standby duty and emergency call-back situations which cannot be reasonably predicted or scheduled.(July, 2000)

SECTION VI - BENEFITS

A. LEGAL HOLIDAYS

All offices and shops of the City of Cleveland, except emergency and necessary operations, will be closed and employees excused on the following legal holidays: (January 8, 2001)

New Year's Day	January 1st
M. L. King Birthday	Third Monday in January
President's Day	Third Monday in February
Good Friday	Friday before Easter Sunday
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	First Monday in September
Veterans Day	November 11th
Thanksgiving Day	Fourth Thursday in November
Day After Thanksgiving	Fourth Friday in November
Christmas Eve	December 24th
Christmas	December 25th

When a legal holiday falls on Saturday, offices will be closed the preceding Friday. When a holiday falls on Sunday, the following Monday shall be observed.

B. HOLIDAY PAY

All employees, except fire department personnel working the 24 hours on/48 hours off schedule, shall receive eight (8) hours of pay at the regular rate of pay for each legal holiday. Any of these employees who are non-exempt, and required to actually work on a legal holiday also shall receive pay at the regular rate of pay for each hour actually worked on a legal holiday. Only hours actually worked on a legal holiday will be used to calculate any overtime.

Non-exempt employees may sell in lump sum a maximum of five(5) accumulated holidays to the City during any fiscal year. One week of holiday pay shall equal one fifty second (1/52) of current salary for all employees. Accumulated holidays earned after July 1, 2002 shall be converted to vacation leave at the end of the calendar year, and shall be subject to the limits and provisions established in Subsection C, ANNUAL VACATION WITH PAY. (Rev. 9/23/02)

Non-exempt police personnel working shifts may elect to take eight (8) hours off at another time in lieu of payment for the holiday. This option is available provided that it does not adversely affect the scheduling of adequate personnel at all times. The decision on adequacy of personnel is reserved for the determination of the Chief of Police, who may delegate it to subordinate officers.

Non-exempt fire department personnel working the 24 hours on/48 hours off schedule shall each receive sixteen (16)hours of pay at the regular rate of pay for each legal holiday. This is the equivalent to the pay given all other employees. This pay shall be given in equal installments in each of the thirteen pay periods each year, in order to avoid large changes in payroll checks for these personnel. These personnel will maintain the 24 hours on/48 hours off schedule regardless of legal holidays. These hours shall not be used to calculate any overtime.

That all policies, procedures, or rules in conflict with any portion of this Resolution are hereby repealed to the extent of such conflict.

That this Resolution shall be and remain in full force and effect from and after the date of its adoption, except for the holiday pay provisions, which shall become effective beginning July 1, 1996.

C. ANNUAL VACATION WITH PAY

Vacation will be granted to regular employees on a monthly basis, depending upon their length of service. The City Manager shall have the authority to grant additional vacation leave and determine the accrual rate for department heads and key personnel upon hiring as he deems necessary. The City Manager will then provide the additional vacation leave in writing to the employee, the Mayor and City Council, the affected Department Head, Personnel Director, and the Human Resources Committee. (February 26, 2001) The monthly accrual shall be shown on each payroll check stub, minus the amount of vacation taken, so that a running total of available vacation time appears on the payroll check stub. Up to thirty (30) days vacation may be carried forward into the following calendar year.

Vacation time will be calculated according to the following schedules:

Employees Working a 40-Hour/Week Schedule:

Years of Service	#of Vacation Days	#of Vacation Hours	#of Vacation Hours/Month
0 – 1	5	40	3.33
1 – 4	10	80	6.67
5 – 14	15	120	10.00
15 – 19	20	160	13.33
20 +	25	200	16.67

Employees Working a 24/48 Hour Schedule:

Years of Service	#of Equivalent Vacation Days	#of Vacation Hours	#of Vacation Hours/Month
0 - 1	5	56	4.67
1 - 4	10	112	9.34
5 - 14	15	168	14.00
15 - 19	20	224	18.67
20 +	25	280	23.34

All employees working a 24/48 hour schedule that are hired on or after July 1, 1997 shall receive vacation leave according to the chart above.

All employees working a 24/48 hour schedule that were employed as of June 30, 1997 will be given a **one-time election** of (1) moving to the vacation schedule in the chart above, and being placed on the new Classification and Compensation Plan at a higher rate of pay that converts the decrease in vacation leave to cash; **or** (2) remaining on the existing vacation schedule for 24/48 hour personnel as long as they hold a position with a 24/48 hour schedule.

Those employees working a 24/48 hour schedule as of June 30, 1997 that elect to remain on it shall receive vacation leave according to the chart below:

Years of Service	#of Equivalent Vacation Days	#of Vacation Hours	#of Vacation Hours/Month
0 - 1	5	120	10
1 - 4	10	240	20
5 - 14	15	360	30
15 - 19	20	480	40
20 +	25	600	50

(Rev. 10/22/01, effective 1/2/02)

Excessive accumulated annual vacation days shall be converted to sick leave and shall then be as described under Section VI Benefits, Paragraph D. Excessive leave days shall be defined as any accumulation over the total of thirty (30) days as of December 31st of each year.

For leave purposes the service an individual has to his/her credit includes all continuous time spent as a full-time employee of the City.

Vacations will be scheduled in advance for the mutual convenience of the employee and the City Government so proper adjustments can be made in the work schedules. Department Heads preparing vacation schedules will give choice of dates based on seniority of the personnel in his/her department and no employee may begin his/her annual leave until his/her request has been approved by the Department Head.

An employee who is separated from the employment of the City shall be paid for his/her unused vacation leave on a regular pay period basis. The termination date shall coincide with last date of pay. In no event will an employee who has not completed at least one (1) year of satisfactory service receive terminal vacation pay.

Legal holidays falling within a vacation period are not to be counted as vacation days. Employees may sell a maximum of 5 vacation days to the City during any fiscal year. One week vacation pay shall equal (1/52) one fifty second of current salary for all employees. Employees may not transfer earned leave to

another employee. Under highly unusual circumstances, an employee may be allowed to borrow against future annual vacation, using the same criteria established under Subsection D of this Section for borrowing against future sick leave. The safety incentive days program within the Public Works Department is hereby terminated effective July 1, 1997. All accruals of time earned under this program through June 30, 1997 will be honored.

D. SICK LEAVE

Each regular employee will accrue sick leave at the rate of one (1) day per month with an unlimited accumulation rate. Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains.

Generally, employees become eligible to use sick leave when:

1. Employees are incapacitated by sickness or non job-related injury, or for medical, dental, or optical diagnosis and treatment.
2. For necessary care and attendance of a member of the employee's immediate family when approved by the Department Head. For the purpose of this section, "immediate family" is defined as a spouse, mother, father, legal guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, adopted and foster relationships that can be derived from those named. (July 24, 2000)
3. After exposure to a contagious disease, when certified by a qualified doctor's certificate, that the employee may jeopardize the health of others.

To prevent abuse of the sick leave privilege, Department Heads are required to satisfy themselves that the employee is genuinely ill before paying sick leave. Any absence may require a doctor's certificate, and any absence in excess of three (3) work days may also require a doctor's certificate that the employee is able to perform the essential functions of the job in order to return to work (if, in the opinion of the immediate Supervisor, such action is deemed appropriate).

Each day deducted from an employee's sick leave accumulation shall be for a regular work day and shall not include holidays and scheduled off days. Employees claiming sick leave while on annual leave must support their claim by a doctor's statement. When an employee is on "leave without pay" for 15 days during any calendar month no sick leave accumulates.

Eight (8) hours absence from work while sick will constitute a charge of one day of sick leave for all employees except members of the Fire Department working twenty-four (24) hours on and forty-eight (48) hours off. Fire Fighters working these shifts will be charged one day, twenty-four (24) hours, of sick leave for each twenty-four (24) hours absent from work due to illness.

After an employee has exhausted his/her accrued sick leave, unpaid sick leave may be granted, at the discretion of the City Manager, as a reasonable accommodation to persons with disabilities, or the employee may be placed on special leave without pay, or he/she may be terminated if the employee is unable to perform their job or another job with or without reasonable accommodation. Should the employee be able later to return to work, upon presentation of certification by a doctor, he/she shall be given preference for employment to a position for which he/she is qualified with the approval of the City Manager or Department Head.

Employees may not transfer earned sick leave to another employee. Upon exhausting all earned sick leave, an employee may use earned annual leave or take leave without pay.

If an employee exhausts all earned sick leave and annual leave, and still has a bona fide medical condition from which recovery is expected which will allow a return to his current job, or another job which is open, the employee may request that annual sick leave and annual leave be granted in advance. Under some circumstances, an employee may request advance leave due to a bona fide medical condition of an immediate family member. Any advanced leave request shall be made in writing to the Department Head, who shall make a recommendation to the City Manager on the matter. The City Manager shall refer the matter to the Human Resources Committee for a recommendation as well. Following receipt of the committee's recommendation (which must be made in writing no later than ten (10) days following the City Manager's referral), the City Manager shall make a determination on the request. In making their recommendations and the final determination, the Department Head, the Human Resources Committee, and the City Manager must consider the following criteria:

- 1) Will the employee be able to return to full duty in the job currently held, or to a job which is open, within a short time of this additional leave being taken?
- 2) Has the employee been employed by the City for at least two (2) years; has he been evaluated as a good employee; and is the employee expected to continue as a good employee in the future?
- 3) Does the employee have a history of not accumulating sick leave to protect against a protracted illness; or has the employee made diligent efforts to accumulate time in the event of an emergency? The employee must have

accumulated a total of twelve unused sick days prior to the illness or accident which is the reason for this advance leave request.

4) Is the request for advanced leave a reasonable accommodation, which the employee can be expected to repay fully within one year?

5) The employee cannot be granted more than two weeks of sick leave in advance, and not more than two weeks of annual leave in advance. Sick leave will be advanced first, then vacation leave.

6) The employee must sign a written agreement stating that should he leave employment of the City before repaying the leave advanced, he agrees to repay the City in cash for any remaining days on a prorated basis over the months remaining in the twelve month period immediately following the decision to advance the leave. At its discretion, the City may opt to take as much of the money owed as it deems appropriate, from the employee's last paycheck. This decision will be made by the City Manager.

7) This policy of advancing leave is intended to be utilized only under highly unusual circumstances. Employees should make every effort to accumulate sufficient sick leave to protect themselves against a protracted illness. This policy is designed to help good employees who have made diligent efforts to accumulate sufficient sick leave, but have encountered a protracted illness or accident which has depleted their accumulated leave.

8) If the City Manager grants any leave in advance to an employee, he shall do so in writing, giving his reasons for the decision. He shall furnish a copy of his decision to the employee, the Mayor and City Council, the affected Department Head, the Personnel Director, and the Human Resources Committee.

An employee who retires under the City's retirement plan shall have all unused sick leave at time of retirement credited as additional time worked when calculating the employee's retirement benefits.

E. LONGEVITY PAY

Full-time employees who have completed at least five years of current, continuous service by June 30, 2004 and are employed by the City as of June 30, 2004 shall be eligible for longevity pay in the amount of \$50.00 for each year of current, continuous service with the City. Prior periods of service will not be considered for purposes of calculating longevity pay. Complete fiscal years of service shall be calculated using the June 30th date each year to determine the number of years used in calculating longevity pay. Longevity pay shall be paid in November of each year to all eligible employees provided funds are available.

However, any employee leaving employment after June 30th but before November shall receive longevity pay on their last payroll check. (Rev. 6/28/04)

In the event that an employee retires or is laid off by the City, the employee shall receive on his last payroll check longevity pay equal to one-twelfth of the total longevity pay he would have received for each month or fraction of a month he was employed full-time during the fiscal year in which he was retired or laid off. There will be no proration of service time for employees other than those who retire or are laid off.(6-27-94)

Examples illustrating these policies are:

1. An employee has worked for twenty years as of June 1994. The employee retires on October 15, 1994. The employee will receive \$1,000.00 of longevity pay for FY 1994, and will receive an additional \$350.00 in longevity pay on the employee's last paycheck for the three full months and part of a fourth month that the employee worked after June 30, 1994.

2. An employee has worked for ten years as of June 1994. The employee is laid off on January 17, 1995. The employee will receive \$500.00 in November of 1994 for FY 1994, and will receive \$320.83 for the full six months and part of a seventh month that the employee worked after June 30, 1994.

3. An employee has worked for five years as of June 30, 1994. The employee is fired on July 12, 1994. The employee will receive \$250.00 on the final paycheck.

4. An employee has worked for seven years as of June 30, 1994. The employee quits work on June 18, 1995. The employee would have received \$350.00 in November of 1994, but no longevity pay on the final paycheck. (Rev.7/25/94)

F. SPECIAL LEAVE WITH OR WITHOUT PAY

Special leave is defined as time off from regular work which can be granted with or without pay at the direction of the City Manager or Department Head. Such leave with pay may be used for such occasions as jury duty, military leave, death, or natural catastrophe in an employee's family requiring the employee's presence, and time granted for attendance at job related professional meetings.

Bereavement pay will be granted for the death of a member of the immediate family for a maximum of three days (24 working hours) during which, except for the death, the employee would otherwise be actively at work. All fire

department personnel working a 24 hours on/48 hours off shift shall receive the equivalent hours, which based on a 56-hour equivalent workweek has been determined to be 33.6 hours of bereavement leave. The days for which bereavement pay are to be granted must occur within seven days after the date of the death. An employee may request and be granted by the department head additional leave without pay if justified to the satisfaction of the department head. Days paid as bereavement pay will not be counted as sick leave or vacation leave. For purposes of this subsection, the term "immediate family" shall include the same familial relationships as listed in Section VI., D, of this document.

To be eligible for bereavement pay, the employee must promptly notify his/her supervisor of the death and receive permission to be absent from work, and must provide information as to the relationship of the deceased, date of death, and the date and location of the funeral. The employee must attend the funeral in order to receive pay for time off. The employee must certify to the department head all information listed herein, and any false claim will result in disciplinary action.

Effective August 5, 1993 the City of Cleveland and its eligible employees became subject to the Family and Medical Leave Act (FLMA). This act basically entitles an eligible employee to a leave of absence for up to twelve (12) weeks for serious health conditions involving either the employee or a member of the employee's immediate family. Family Medical Leave shall commence with the first scheduled work day immediately proceeding the last day worked and shall be for a duration of no more than twelve (12) weeks within any twelve (12) month period. Any and all accumulated leave (sick, annual, comp. etc.) shall be exhausted prior to the taking of days without pay. F.L.M.A. in its entirety is available for examination at the City Personnel Office.

Special leave without pay may be granted for a period not to exceed ninety (90) work days for temporary sickness, disability, or for other good and sufficient reasons which are considered controllable. An employee on special leave without pay shall not accrue sick leave or vacation credit while on leave status. The granting of such leave shall require the recommendation of the Department Head, and the approval of the City Manager.

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

G. MILITARY LEAVE

Any full-time employee who enters the Armed Forces of the United States, will be placed on Military Leave. The City Manager shall approve military leave

without pay when the employee presents his/her official orders. The employee must apply for reinstatement within the following time frame:

1. Persons inducted into military service (voluntarily as well as involuntarily): 90 days after release from service.
2. Reservists ordered to initial period of active duty for training of not less than three consecutive months: 31 days after release from active duty.
3. Reservists ordered to additional periods of active or inactive duty training (voluntarily or involuntarily): Must report to work at the beginning of the next regularly scheduled working period after expiration of last calendar day necessary to travel from place of training to place of employment (or within a reasonable time if the employee's return is delayed through no fault of his own).
4. Reservists "called up" (voluntarily as well as involuntarily) for the performance of operational missions under 10 U.S.C. § 673(b) for period of not more than ninety(90)days: 31 days after release from active duty.

The City will comply with federal regulations that provide exceptions to the schedule for individuals who are hospitalized as a result of military service and whose term of hospitalization extends past their discharge dates.

The employee will be reinstated to a position in the current classification plan at least equivalent to his/her former position. His/her salary will be the salary provided under the position classification and compensation plan prevailing at the time of reinstatement or reemployment for the position to which he/she is assigned.

Any full-time employee who is a member of the United States Army Reserve, Navy Reserve, Air Force Reserve, Marine Reserve, National Guard, or any of the Armed Forces of the United States, will be granted military leave for any field training or active duty required (excluding extended active duty) pursuant to provisions in TCA 8-33-109. Such leave will be granted upon presentation of the employee's official order to the City manager. Compensation for such leave will be for a period not exceeding fifteen(15)working days in any one(1)calendar year, plus such additional days as may result from any call to active state duty pursuant to TCA 58-1-106. Military leave with pay shall not be charged against the employee's accrued sick leave, vacation, or compensatory credits. However, military time in excess of fifteen(15) working days within any one(1)calendar year may be charged against the employee's vacation leave at the option of the employee.

H. JURY SERVICE LEAVE

Employees selected for jury service shall be excused from their assigned duties for the actual duration of the jury duty. In the event of release from jury duty during the employee's normal working hours, he/she shall be expected to return to his/her department. An employee will receive full pay from the City during jury service, provided they sign over the jury pay to the City.

I. CAREER DEVELOPMENT AND TRAINING

Employees are encouraged to take advantage of education and training benefits to improve their job skills and to qualify for promotions. These benefits are limited to training and education relevant to the employee's current position or "reasonable" transfer and/or promotional opportunities. "Reasonable" is defined as attaining the minimum qualifications for promotion or transfer with no more than two (2) years of additional training or education.

These benefits will be available to all employees on a first come, first served basis, subject to the availability of budgeted funds.

Requests for education and training may be initiated by either the employee or Department Head. Reference to training requests and training received should be made on performance evaluation forms. Final decisions on requests for education and training will be made by the City Manager.

Department Heads, with approval of the City Manager, may authorize or require employee attendance at conferences, seminars, workshops, or other functions of a similar nature that are intended to improve or upgrade the employee's job skills.

Requests to attend training sessions should be made at least fifteen (15) days prior to the deadline for registration. The City Manager, based upon Department Head's recommendation, shall determine who shall attend conferences based upon availability of resources.

When a request for training is approved, the employee's cost for registration, tuition and publications, transportation, lodging, and other reasonable expenses will be covered by the City.

J. COLLEGE INCENTIVE PAY

As an incentive for all full-time employees to continue their education, the City will offer the following annual bonus pay for employees with one or more years of service with the City.

As of Nov. 1 of each year:

<u>QTR. HOURS</u>	<u>AMOUNT OF PAY</u>
37.5 - 82.5	\$125.00
83.0 - 127.5	\$280.00
128.5 - BS	\$435.00
BS Degree	\$625.00
Masters Degree	\$750.00

College incentive pay shall be remitted to the employee during the month of November. College incentive pay shall not apply to an employee hired after January 1, 1993.

K. EDUCATION REIMBURSEMENT

Employees must submit a written request for education reimbursement to their Department Head at least fifteen (15) days prior to the registration deadline for such classes. The Department Head shall make a recommendation to the City Manager, who shall determine if the request meets the requirements of this section. Requests will be considered for attendance at accredited colleges, universities, and business and technical schools recognized by a Regional Institutional Accrediting Agency for single courses or programs leading to a degree or certificate or a General Equivalency Diploma (GED). (Rev. 9/23/02)

There are three classifications of requests: 1)GED courses, which are all eligible for reimbursement; 2) non-degree, or single courses, which are eligible for reimbursement only if they are specifically related to the job classification currently held by the employee; and 3)courses required as part of a specific degree program selected by the employee, whether core or elective courses, provided that the declared degree is a legitimate required or preferred educational program for at least one existing job classification within the City's Classification and Pay Plan. The degree program need not be required for the employee's existing job classification. All degree programs must be pre-approved by the Department Head and City Manager as meeting these requirements, and the employee must furnish the pages from the college's catalog verifying the required and elective courses necessary to attain the selected degree. In addition, he/she must provide verification from his/her academic advisor that the degree is being actively pursued. Each course must count toward meeting these degree requirements, or be a prerequisite course for the degree, to qualify for reimbursement.

If a written request is approved, the employee shall receive reimbursement up to a maximum of \$1320 per fiscal year (rev. 6/28/04) for the cost of registration, tuition, and books upon proof of successful completion of the course(s) based upon the following schedule:

100% reimbursement for a grade of A, B, or C.

No reimbursement for a grade of D, F, Incomplete or Withdrawn.

Employees are prohibited from receiving double funding for education, i.e., from the City and from the Veterans Administration. Employees will be required to sign a statement verifying that the City is the sole source of outside funding. False statements will subject the employee to serious disciplinary action.

When the employee completes such courses, he/she shall provide an official transcript or report card, and an itemization of reimbursable expenses (with receipts if possible) to the Department Head for processing the reimbursement.

If an employee voluntarily separates from the City within two (2) years of receiving educational or training expense reimbursements, he or she shall have fifty (50%) percent of the amount reimbursed deducted from the employee's final paycheck.

In cases where employees have special scheduling problems while attending approved education or training programs, especially courses in preparation for a General Equivalency Diploma (GED), every effort will be made to allow the employee release time from their work schedule to attend classes, subject to departmental scheduling and workloads. In situations of this type the employee must make up the release time on a weekly basis. Written approval of the employee's Department Head must be obtained prior to using release time. Any employee who is not currently a high school graduate, but attains a General Equivalency Diploma (GED) after July 24, 2000 shall receive a one-time bonus of \$500.

This Educational Reimbursement policy is affordable at the current levels of employee participation. Significant increases in participation could have a significant financial impact on the City. Therefore, the City Council reserves the right to limit participation in any fiscal year where increased usage creates a financial burden. Given the need for well-trained employees, this should only be invoked in difficult financial circumstances, i.e., during a major recession or other conditions affecting the City's financial resources. (July 2000)

L. PERSONAL EDUCATION AND TRAINING

Employees who desire to further themselves through education or training not related to their work for the City are encouraged to do so. The City will be unable to provide financial assistance for this type of education, but employees may be granted, upon written request, permission to take time away from their jobs for training when such time is taken without pay, as compensatory time, or as

vacation time, and only so long as their absences will not cause hardship for their departments.

M. MATERNITY LEAVE

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

An employee desiring maternity leave shall notify her Department Head so a temporary replacement may be secured.

N. DEATH OF AN EMPLOYEE

Upon the death of a full-time regular employee, his/her beneficiary shall receive his/her next due payroll check, pay for all accrued vacation time, plus an additional two weeks full pay. Further, his/her beneficiary shall be given complete assistance by the Personnel Director in settling pension, life and hospital insurance benefits

O. RETIREMENT SYSTEM

Employees of the City of Cleveland will be eligible for retirement benefits under the Tennessee Consolidated Retirement System/Social Security/deferred compensation plans.

P. HOSPITALIZATION INSURANCE

- (1) Employees of the City of Cleveland are covered by the City of Cleveland's Medical Insurance Plan, as determined by the City Council. The City Council may elect to either self-insure or use a premium-based plan or other method of providing this benefit. Employees not covered under the City's plan must show proof of insurance if covered under another plan.
- (2) Retirees of the City of Cleveland are governed by the following policy regarding medical insurance.
 - a) The *minimum requirements for retired employees' continued health care coverage* shall be ten (10) years of full-time

employment with any department of the City of Cleveland and 1) a minimum age of fifty-five (55) years, or 2) eligibility for disability retirement under the rules of the Tennessee Consolidated Retirement System (TCRS), or 3) eligibility for the minimum twenty-five (25) years creditable service retirement under TCRS.

- b) Upon the retiree's death, the spouse and dependent children shall be eligible for coverage for a maximum of three (3) years plus COBRA eligibility. (Rev. 7/10/06)
- c) The retired employee's coverage may terminate if the retiree becomes eligible for coverage through a new employer. The retiree and spouse may re-enroll in the city's plan if the retiree is no longer eligible for health coverage through the other employer and the retiree meets all other eligibility requirements of the city. (Rev. 7/22/02) (Rev. 7/10/06)
- d) If the retired employee terminates his coverage from the City's health care plan, then the spouse and dependent children's coverage shall also be terminated, except as provided in (2) (b) above.
- e) The *minimum requirements for health care premium reductions* shall be fifteen (15) years of full-time service in any department of the City of Cleveland, current membership in the City's health care plan and eligibility for retirement under the rules of the Tennessee Consolidated Retirement System.
- f) The premium reduction credits shall be based on the greater of actual years of full-time City service or years of creditable service as calculated by the Tennessee Consolidated Retirement System.
- g) The premium reduction schedule shall be fifty percent (50%) reduction for fifteen (15) years of service and an additional three (3) and 1/3 percent reduction for each additional year of service to a maximum of one hundred percent (100%) paid for thirty (30) or more years of service. The premium reduction schedule shall be as follows:

<u>Years of Service By the Employee:</u>	<u>Percentage of Premium Paid by the City:</u>
15	50.00
16	53.33
17	56.67

18	60.00
19	63.33
20	66.67
21	70.00
22	73.33
23	76.67
24	80.00
25	83.33
26	86.67
27	90.00
28	93.33
29	96.67
30	100.00

h) Retirees after June 12, 2006 shall have the option of coverage under the City's group health insurance or the City's Medicare Supplement Plan provided funding is available. (Rev. 8/14/06)

i) The premiums and health care benefits will be the same as those provided for other full-time employees and subject to any and all adjustments made thereto.

j) This premium reduction plan shall be retroactive to January 1, 1992 and shall remain in effect until such time as the plan may be found economically infeasible. (Rev. 11-23-98) (Rev. 7/10/06).

Q. LIFE INSURANCE

City employees are covered under the City of Cleveland's most currently implemented life insurance plan. Rules are set by the City Council. (Rev. 2/26/01)

R. OCCUPATIONAL DISABILITY

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

When an employee is injured on the job, the Supervisor or Department Head shall immediately notify the Personnel Director, who shall submit an accident report to the Human Resources Committee and retain a copy in the safety file. Where an accident causes serious bodily injury or death to an employee, the Supervisor shall immediately notify the Department Head, who shall notify the City Manager.

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

The City will pay for up to thirty (30) calendar days the difference between Worker's Compensation and the employee's regular take home pay, taking into account the tax-free provision of Worker's Compensation benefits. Any monies received as a benefit under Worker's Compensation must be deposited by the employee in original check or draft form with the City Clerk. The total amount of monies paid the employee each pay period shall not exceed the full pay the employee would have received for the period at his/her regular straight-time, or normal work period pay rate in effect as of the date of the injury.

The employee may remain on disability leave for another ninety (90) calendar days after the thirty (30) calendar day period has lapsed, for a total of one hundred twenty (120) days after the date of injury, if necessary for medical reasons. However, after the thirty (30) day period has lapsed, the employee will receive only the indemnity rate from Worker's Compensation. The employee can supplement that indemnity rate using all vacation time earned to date. But the total amount of money paid the employee each pay period shall not exceed the full pay the employee would have received for the period at his/her regular straight-time, or normal work period pay rate in effect as of the date of the injury.

In highly unusual circumstances, the City Manager may extend the total period of disability leave from one hundred twenty (120) days to one hundred sixty-five (165) days. In addition, an employee may request advance vacation leave of up to two (2) weeks, as outlined in Section VI, Subsection D of this personnel policy. If advanced vacation leave is granted, it may be used to supplement the Worker's Compensation benefits as outlined in this subsection.

Employees on occupational disability leave due to an on-the-job injury will not be charged sick leave during the period of convalescence. They will not be charged vacation leave either unless they have chosen to supplement the Worker's Compensation benefits with vacation leave. Employees shall continue to accrue sick leave and vacation leave at their regular rate while on occupational disability or injury leave.

In all cases of occupational disability the responsibility of determining the character, degree and potential duration of an injury shall rest with one of the panel of three licensed, practicing medical doctors designated by the City

Manager. The medical doctor(s) may make periodic examinations, progress reports and recommendations as deemed necessary by the City Manager.

In the case where occupational disability to an employee occurs and the employee has been reported as occupationally disabled for a period of thirty (30) calendar days, the Department Head shall review the progress of the case with, and make recommendations to the City Manager. They will determine if the best interests of both the City and employee would be served by returning the employee to light duty for a specified period of time.

Before an employee is returned to full duty, the employee must be certified by the attending physician as capable of performing the essential functions of the job. The physician will be furnished a copy of the job description, a list of the essential job functions as determined by the Personnel Director and the department head, and a form listing the required capabilities. The attending physician must complete the form provided by the Personnel Director documenting the employee's ability to perform the essential job functions. The City reserves the right to obtain a second medical opinion from the physician of its choosing before a final decision is made on a return to light or full duty.

If an employee is unable to return to the position held at the time of injury, the City Manager shall take reasonable steps to place the individual in a comparable position, if one is available, for which he/she is qualified and able to perform the essential functions, with or without reasonable accommodations.

Should an employee be unable to return to full duty within one hundred twenty (120) days after the date of injury, or within one hundred sixty-five (165) days if the City Manager has approved the extended time, and no comparable position for which the employee is qualified is available, the employee may be subject to separation only:

1. If he/she cannot perform the essential functions of the job due to a disability which cannot be reasonably accommodated;
2. The employee poses a direct threat to himself or others.

S. UNIFORMS AND LAUNDRY

The City shall provide uniforms and their cleaning for employees, other than clerical and others wearing normal street clothes, in the Public Works, Police, Fire, and Parks and Recreation Departments, and the Animal Shelter.

Clothing allowances of an amount to be determined annually shall be given the police detectives; building, plumbing and mechanical inspectors; and department heads. Reasonable amounts for laundry and dry cleaning for these employees shall also be paid.

T. FLEXIBLE SPENDING PROGRAM

Full-time City employees shall be eligible to join the City's Flexible Spending Program annually during the open enrollment period prior to August 1st. This program provides a pre-tax savings account that employees can contribute to and use the funds to pay for non-covered medical expenses and other expenses as approved by IRS regulations and made available through payroll deduction.

The City agrees to provide a debit card for the convenience of its employees at no cost to the employee.

Employees are urged to conservatively estimate the amount deducted for their Flexible Spending Account, because IRS regulations prohibit the refund of unused contributions to the employee. (Rev. 6/28/04)

U. EMPLOYEE ASSISTANCE PROGRAM

Full-time employees shall be eligible for the City's Employee Assistance Program. The program offers professional counseling and other services to employees and eligible dependents, as well as supervisory and employee training in various areas. (Rev. 6/28/04)

V. MEDICARE SUPPLEMENT PROGRAM

Future retirees, as well as current retirees under age 65, are eligible for the City's Medicare Supplement Program. Future retirees over age 65 and retirees currently under the previous Medicare Supplement Plan may choose between the City's group health insurance coverage and the City's Medicare Supplement Program, with the City to pay premiums using the same formula as active employees. The premium reduction policy shall apply. The Medicare supplement plan is optional to pre-65 retirees after June 12, 2006 when they reach age 65.

Years of service is defined as all years of creditable service established by the retiree with the Tennessee Consolidated Retirement System. It shall be the responsibility of the retired employee to contact the City's Human Resources Department upon eligibility for this benefit.

The Medicare Supplement Program shall remain in effect until the plan may be found economically infeasible by the City, at which time retirees in the program shall become responsible for the entire premium. (rev. 8/14/06)

W. SERVICE AWARDS

City employees shall receive service awards according to the following schedule:

5 Years	\$ 75
10 Years	\$100
15 Years	\$150
20 Years	\$200
25 Years and above	\$250

Service time includes all current and prior periods of service combined. Service awards are awarded in December of each year based upon service time through December. Retiring employees who have a qualifying number of years of service shall receive service award payment upon their retirement. The Service Award program is subject to available funding. (Rev. 11/22/04)

SECTION VII - MISCELLANEOUS POLICIES

A. SOLICITATION

The City believes that its employees should not be exposed to frequent solicitations for charitable purposes; therefore, solicitation shall be limited to as few visits as necessary during the course of the year.

B. PERSONAL TELEPHONE CALLS

The use of the office telephone during regular work hours for local and/or long distant calls of a personal nature, except in emergency cases, is discouraged. Unauthorized personal long distance calls will result in disciplinary action unless the caller reimburses the City.

C. NARCOTICS AND INTOXICATING LIQUORS

1. PURPOSE OF DRUG TESTING PROGRAM - NOTICE

- a. The City of Cleveland has a legal responsibility and management obligation to ensure a safe work environment, as well as paramount interest in protecting the public by ensuring that its employees have the physical stamina and emotional stability to perform their assigned duties. Employees must be free from drug or alcohol dependence, illegal drug use, or drug/alcohol abuse.
- b. The City and its employees may be subject to liabilities if the City fails to address and ensure that employees can perform their duties without endangering themselves or the public.
- c. There is sufficient evidence to conclude that the use of illegal drugs/alcohol, drug/alcohol dependence and drug/alcohol abuse seriously impair an employee's performance and general physical and mental health. The illegal possession and use of drugs, alcohol and/or narcotics by employees of the City is a crime in this jurisdiction and clearly unacceptable. Therefore, the City of Cleveland has adopted this written policy to ensure an employee's fitness for duty as a condition of employment; to ensure drug tests are ordered as the result of reasonable suspicion by supervisory personnel and based on observed behavior or work performance; and to notify employees that testing is a requirement of employment.

2. GENERAL RULES

- a. City employees shall not take or be under the influence of any narcotics or dangerous substance unless prescribed by the employee's licensed physician.
- b. City employees are prohibited from the use, possession and sale of drugs, alcohol or any other controlled substance on City property or in City vehicles.

- c. All property belonging to the City is subject to inspection at any time without notice as there is no expectation of privacy.
 - 1. Property includes, but is not limited to, vehicles, desks, containers, files and storage lockers.
 - 2. Employees assigned lockers (that are locked by the employee) are also subject to inspection by the employee's Supervisor after reasonable advance notice (unless waived by the City Manager) and in the presence of the employee.
- d. City employees who have reason to believe another employee is illegally using drugs or narcotics shall report the facts and circumstances immediately to the Supervisor.
- e. Failure to comply with the intent or provisions of this general order may be used as ground for disciplinary action

3. DRUGS TO BE TESTED FOR

When drug and alcohol screening is required under the provisions of this policy, a urinalysis test will be given to detect the presence of the following controlled substances. This list is not intended as an exhaustive inventory of every drug to possibly be tested for. The selection of drugs to be tested for will be based upon known abuse in the community and the ability of each drug to affect job performance.

- a. Alcohol (ethyl)
- b. Amphetamines (e.g. speed)
- c. Barbiturates (e.g. Amobarbital, Butabarbital, Phenobarbital, Secobarbital.)
- d. Cocaine
- e. Methaqualone (e.g. Quaalude)

- f. Opiates (e.g. Codeine, Heroin, Morphine, Hydromorphone, Hydrocodone.)
- g. Phencyclidine (PCP)
- h. THC (Marijuana)

4. PRIOR NOTICE OF TESTING POLICY

The City shall provide written notice of its drug and alcohol testing policy to all employees and job applicants. The notice shall contain the following information:

- a. The need for drug and alcohol testing;
- b. The circumstances under which testing may be required;
- c. The procedures for confirming an initial positive drug test result;
- d. The consequences of a confirmed positive test result;
- e. The consequences of refusing to undergo a drug and alcohol test;
- f. The right to explain a positive test result and the appeal procedures available; and
- g. The availability of drug abuse counseling and referral services.

5. CONSENT

Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those City officials with a need to know. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the City's drug testing policy.

The consent form shall also set forth the following information:

- a. The procedure for confirming an initial positive test result;

- b. The consequences of a confirmed positive test result;
- c. The right to explain a confirmed positive test result and the appeal procedures available; and
- d. The consequences of refusing to undergo a drug and alcohol test.

6. JOB APPLICANT TESTING: GENERAL STANDARD

Applicants for the positions of public safety officers, to undergo a drug and alcohol test after a conditional offer of employment and prior to their final appointment.

7. CURRENT EMPLOYEE TESTING: GENERAL STANDARD

The City shall require current personnel in public safety positions to undergo drug and alcohol testing on or around July 1, 1992, and thereafter on a randomly selected schedule that will comply with applicable Federal and/or State requirements.

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

- a. A pattern of abnormal or erratic behavior;
- b. Information provided by a reliable and credible source;
- c. A work-related accident;
- d. Direct observation of drug or alcohol use; or
- e. Presence of the physical symptoms of drug or alcohol use (i.e., glassy or bloodshot eyes, alcohol odor on breath, slurred speech, poor coordination and or reflexes).

Supervisors are required to detail in writing the specific facts, symptoms, or observations that 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 designated alternate.

8. REFUSAL TO CONSENT: APPLICANT

A job applicant who refuses to consent to a drug and alcohol test after a conditional offer of employment is made will be denied employment with the City.

9. REFUSAL TO CONSENT: EMPLOYEES

An employee who refuses to consent to a drug and alcohol test when reasonable suspicion of drug or alcohol use has been identified is subject to disciplinary action up to and including termination. The reason(s) for the refusal shall be considered in determining the appropriate disciplinary action.

10. CONFIRMATION OF TEST RESULTS

An employee or job applicant whose drug test yields a positive result shall be given a second test using a gas chromatography/ mass spectrometry (gc/ms) test. The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test.

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 designated alternate. The letter of notification shall identify the particular substance found and its concentration level.

An employee or applicant whose second test contradicts the original positive test results 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.

11. CONSEQUENCES OF A CONFIRMING POSITIVE TEST RESULT: JOB APPLICANTS

Job applicants who have been given a conditional offer of employment will be denied employment with the City if their initial positive test results have been confirmed. Applicants shall be informed in writing if they are rejected on the basis of a confirmed positive drug test result.

12. CONSEQUENCES OF A CONFIRMING POSITIVE TEST RESULT: CURRENT EMPLOYEES

If a current employee's positive test result has been confirmed, the employee is subject to disciplinary action up to and including termination. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job performance, and existence of past disciplinary actions. No disciplinary action may be taken against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation through a program sanctioned by the City, and thereafter refrain from violating the City's policy on drug and alcohol abuse.

13. THE RIGHT TO A HEARING

If an employee's positive test results have been confirmed, the employee is entitled to a hearing before any disciplinary action may be taken by the City. The employee must make a written request for a hearing to the appropriate Department Head or designated alternate within five (5) days of receipt by the employee of the confirmation test results. Employees may be represented by legal counsel, present evidence and witnesses on their behalf, and confront and cross-examine the evidence and witnesses used against them.

No adverse personnel action may be taken against an employee based on a confirmed positive test result unless the hearing officer finds by a preponderance of the evidence that:

- a. The employee's Supervisor had reasonable suspicion to believe that the employee was under the influence of drugs or alcohol while on the job; and
- b. The employee's drug test results are accurate.

Within five (5) days following the close of the hearings, the hearing officer shall issue a written decision and a brief summary of the facts and evidence supporting that decision.

14. VOLUNTARY EMPLOYEE ASSISTANCE PROGRAM REFERRAL

Upon the first confirmed determination that an employee is under the influence of drugs or alcohol, the City shall refer the employee to an Employee Assistance Program for assessment, counseling, and rehabilitation. Participation in an EAP is voluntary and no disciplinary action may be taken against an employee for failure to begin or complete an EPA program. Disciplinary action

based on a violation of the City's drug and alcohol policy is not automatically suspended by an employee's participation in an EAP and may be imposed when warranted.

15. CONFIDENTIALITY OF TEST RESULTS

To the extent allowed under the Tennessee Open Records Law, all information from an employee's or applicant's drug and alcohol test is confidential and only those individuals with a need to know are to be informed of test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed. The records of unconfirmed positive test results and negative test results shall be destroyed by the testing laboratory.

16. LABORATORY TESTING REQUIREMENTS

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, a medical facility or laboratory must submit in writing a description of the procedures that will be used to maintain test samples and maintained by the City's Personnel Department. Factors to be considered by the City government in selecting a testing facility include:

- a. Testing procedures that ensure privacy to employees and applicants consistent with the prevention of tampering;
- b. Methods of analysis that ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;
- c. Chain-of-Custody procedures that ensure proper identification, labeling, and handling of test samples; and
- d. Retention and storage procedures that ensure reliable results on confirmatory test of original samples.

D. FIGHTING, HORSEPLAY, DAMAGING MUNICIPAL GOVERNMENT PROPERTY

Fighting, horseplay, and intentionally defacing or damaging City property is not permitted. Employees engaging in these activities will be subject to disciplinary action which could include discharge.

E. PARKING

Parking is generally provided for City employees. Employees working in congested areas, where parking is scarce, should try to pool their transportation. The City does not assume responsibility for loss or damage at any time to employees' vehicles or their contents.

F. LOCKERS

Locker rooms and lockers are provided as needed so employees may change their clothing before and after work, if desired. Employees are expected to furnish their own lock and key so they will have control over access to the locker. Liability for loss or damage to content of lockers cannot be assumed by the City. Employees may be requested to open their locker for periodic housekeeping, inspections, or other occasions when it is appropriate and/or necessary. Those who use the locker rooms are expected to assist in keeping them clean and orderly.

G. GARNISHMENT

An employee who is garnished for more than one indebtedness within a twelve (12) month period is subject to disciplinary action in accordance with the following schedule:

First Offense -	Oral Reprimand
Second Offense -	Written Reprimand
Third Offense -	May be discharged in accordance with the discipline and dismissal policy.

H. BULLETIN BOARDS

The City maintains bulletin boards at numerous locations on which important information connected with an employee's work is posted from time to time. Cooperation is needed in protecting the posted material. All material to be placed on the bulletin boards must be approved by the appropriate Supervisor before it is posted.

I. TRIP REIMBURSEMENT

All trips that involve reimbursement and/or City expense shall not be undertaken without prior approval of the Department Head. Mileage shall be reimbursed at the maximum rate allowable under the IRS regulations for rate per mile. Food reimbursement shall be subject to the maximum

allowable by the IRS. For details regarding travel, obtain a copy of the City's travel policy from the City Clerk.

J. USE OF CITY VEHICLES AND EQUIPMENT

All City vehicles and equipment are for official use only. No person other than a City employee may operate a City vehicle or piece of machinery.

The following personnel are authorized to take assigned vehicles home, if their residence is in Bradley County or within fifteen (15) miles of their department's facility:

- a) All police vehicles assigned to an individual officer;
- b) Fire Chief, Deputy Fire Chief, Training Officer, and Fire Inspector, Arson Investigator;
- c) Public Works Director, Deputy PW Director, Assistant PW Director for Operations, Transportation Director, and call-back personnel assigned by the PW Director and approved by the City Manager;
- d) Parks and Recreation Director and Urban Forester;
- e) Building, Plumbing, and Mechanical Inspectors; and
- f) Animal Control Supervisor and call-back personnel assigned by him and approved by the City Manager.

Official Use Only is defined as including a direct commute (if a take home car is authorized) either from home to work, or work to home; normal use in carrying out one's assigned job while working a normal shift, or authorize overtime, including meal breaks; and de minimus personal use as defined by administrative policy.

All vehicles and equipment shall be marked with a City insignia approved by the City Manager, except for vehicles used by the police detectives, undercover operations, captain of detectives, and chief of police.

K. SEXUAL HARASSMENT

******NOTE******

The definition of sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct by women toward women. Consequently,

this policy applies to all officers and employees of the City of Cleveland, including but not limited to, full and part-time employees, elected officials, permanent and temporary employees, employees covered or exempt from the personnel rules or regulation of the City, and employees working under contract for the City.

1. DEFINITION

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

2. MAKING SEXUAL HARASSMENT COMPLAINTS

The City may be held liable for the actions of all employees with regard to sexual harassment and therefore, will not tolerate the sexual harassment of its employees. The City will take immediate, positive steps to stop it when it occurs.

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

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

- a. The employee's immediate Supervisor.
- b. The employee's Department Head.
- c. The City's Personnel Director.
- d. The Mayor or Councilmen.
- e. The City Council.

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

- a. Official's or employee's name, department, and position title.
- b. The name of the person or persons committing the sexual harassment, including their title/s, if known.
- c. The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc, taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment.
- d. Witnesses to the harassment.
- e. Whether the employee has previously reported the harassment and, if so, when and to whom.

3. REPORTING AND INVESTIGATION OF SEXUAL HARASSMENT COMPLAINTS

The Personnel Director is the person designated by the City to be the investigator of complaints of sexual harassment against employees. In the event the sexual harassment complaint is against the Personnel Director, the investigator shall be a City employee appointed by the City Manager.

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

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

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

4. ACTION ON COMPLAINTS OF SEXUAL HARASSMENT

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

Based upon the report and his/her own investigation, where one is made, the City Manager shall, within a reasonable time, determine whether the conduct of the person against whom a complaint of harassment has been made constitutes sexual harassment. In making that determination, the City Manager shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred, and the conduct of the person complaining. The determination of whether sexual harassment occurred will be made on a case-by-case basis. If the City Manager determines that the complaint of harassment is founded, he/she shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment, consistent with his authority under the City charter, ordinances or rules governing his authority to discipline employees.

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

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

In cases where the sexual harassment is committed by a non-employee against a City employee in the work place, the City Manager in consultation with the City Attorney shall take whatever lawful action against the non-employee is necessary to bring the sexual harassment to an immediate end.

5. OBLIGATION OF EMPLOYEE

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

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

L. POLITICAL ACTIVITY

*****NOTE*****

Nothing in this section is intended to prohibit any municipal government employee from privately expressing his/her political views or from casting his/her vote in any election.

City employees shall enjoy the same rights as other citizens of Tennessee to become a candidate for any state or local political office, except City employees are not allowed to run for election to the following offices: (1) City Mayor, (2) City Council, (3) City School Board.

City employees shall enjoy the same rights as other Tennessee citizens to participate in political activities by supporting or opposing political parties, political candidates, and petitioning government entities, as long as the employee exercises these rights when the employee is off duty and out of uniform.

City employees are prohibited from engaging or participating in any of the following political activities while on duty or in uniform:

1. Directly or indirectly soliciting, receiving, collecting, handling, disbursing, or accounting for assessments, contributions or other funds for a candidate for any office;
2. Organizing, selling tickets to, promoting or actively participating in a fund raising activity of a candidate for any elected office;
3. Taking an active part in managing a political campaign for a candidate for any elected office;
4. Soliciting votes in support of or in opposition to a candidate for any elected office;
5. Acting as a recorder, watcher, challenger or similar officer at the polls on behalf of a candidate for any elected office;
6. Driving voters to the polls on behalf of a candidate for any elected office;
7. Endorsing or opposing a candidate for any elected office in a political advertisement, broadcast, campaign literature or similar material;
8. Addressing a rally or similar gathering of the supporters or opponents of a candidate for any elected office;
9. Initiating or circulating a nominating petition for a candidate for any elected office;
10. Wearing campaign buttons, pins, hats, or other similar attachments for a candidate for any elected office; or
11. Distributing campaign literature in support of or in opposition to a candidate for any elected office.

As used in this policy, the word “uniform” includes any clothing, equipment, headgear, cap, button, patch, insignia, or any other item(s) of dress.

Property owned by the City of Cleveland, including but not limited to City vehicles, shall not be used for any transportation relating to any political activity, or in photographs, or advertisements for a political candidate or a political party.

The City Manager may grant a City employee a leave of absence to become a candidate for any political office other than (1) City Mayor, (2) City Council, (3) City School Board. (Rev. 11/24/03)

M. ACCEPTANCE OF GRATUITIES

No employee shall accept any money or other consideration or favor from anyone other than the City for the performance of an act which he would be required or expected to perform in the regular course of his duties; nor shall any employee accept, directly or indirectly, any gift, gratuity or favor of any kind which might reasonably be interpreted as an attempt to influence his actions with respect to City business.

N. INCLEMENT WEATHER LEAVE

All Fire Department employees, all Cleveland/Bradley Communication Center employees, Patrol Officers and Supervisors of the Operations Division of the Police Department, and all Operations Personnel in the Public Works Department are declared essential employees for inclement weather situations. (Rev. 1/14/02) All essential employees must report for duty regardless of weather conditions. Failure to report will be considered an unexcused absence. Each department head may use City vehicles to assist essential employees in getting to and from work under such weather conditions, but the responsibility remains with the employee to get to work.

All essential, non-exempt employees shall be paid at the regular rate of pay for all hours worked. In addition, during the period of time the City Manager determines the inclement weather policy is in effect, all essential, non-exempt employees who have worked during that period shall be given one hour of pay or compensatory time off for each hour actually worked. The City reserves the right to either give compensatory time off or pay for this additional time, depending upon scheduling requirements of each department. If the City chooses to pay for the

hours not actually worked, these hours shall not be considered hours worked for purposes of calculating overtime under the FLSA.

All non-essential employees must report for duty regardless of weather conditions unless the City Manager delays the opening of, or closes their specific office to the public due to inclement weather. If offices are closed, the non-essential employees will not report for work unless required to do so by their respective department head.

All non-essential, non-exempt employees shall be paid at the regular rate of pay for all regularly scheduled hours not actually worked during the inclement weather policy period determined by the City Manager. This inclement weather policy period is the number of hours that specific offices were either delayed in opening, or were closed to the public due to inclement weather. If the City chooses to pay for these hours not actually worked, these hours shall not be considered hours worked for purposes of calculating overtime under the FLSA. If the department head required the non-essential, non-exempt employee to work during any part of the inclement weather policy period, the employee is entitled to pay for the regularly scheduled hours under the inclement weather policy, plus pay for the hours during that period actually worked.

Each department head may use City vehicles to assist non-essential employees in getting to and from work during inclement weather policy periods, but the responsibility remains with the employee to get to work.

Non-essential, exempt personnel may be required to report for duty during inclement weather policy periods at the discretion of the City Manager. (Rev. 2/10/1997.)

O. USE OF TOBACCO PRODUCTS

Smoking or the use of tobacco in any form by City employees is not permitted within the physical structure of any City facility or City vehicle. Employees may smoke or use tobacco products only in designated smoking areas. Violations of this policy will be subject to disciplinary action. (Rev. 1/23/06)

P. PERSONNEL RECORDS

Personnel records for each employee are kept on file and maintained by the Personnel Director. Any change of address, telephone number, marital status, draft status, number of dependents, or education completed should be turned in to the Supervisor for transmittal to the personnel section.

The Personnel Director also maintains the life insurance, vacation, pension and retirement, health insurance, and sick leave records for each employee. The

personnel section will advise employees through their supervisors of their eligibility so that they may take full advantage of all the benefits available. All medical records shall be kept in a separate confidential file for each employee.

Q. WORKPLACE VIOLENCE

It is the policy of the City of Cleveland to promote a safe environment for its employees. The City is committed to working with all employees to maintain a work environment free from workplace violence. Threats, threatening and abusive behavior, physical or verbal assaults, threats of violence or physical coercion, or other actions where the motive is to cause pain, fear or personal injury against other employees, visitors, vendors, citizens or other individuals will not be tolerated.

Any employee who makes threats, exhibits threatening behavior, or engages in violent acts shall be removed from the premises as quickly and safely as possible and shall remain off premises pending the outcome of an investigation. Following an investigation, the City will initiate an immediate and appropriate response leading to corrective action up to and including termination of employment and/or referral to appropriate law enforcement agencies for arrest and prosecution.

All employees are responsible for notifying their immediate supervisor or other management personnel of any threatening behavior or workplace violence that they themselves have been subjected to, or that they have witnessed occurring to other individuals, or that they are told another person has been subjected to or witnessed. Even without a specific threat, all employees should report any action or behavior they have witnessed that they regard as potentially threatening or violent or which could endanger the health or safety of an employee or other individual. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threatening behavior and the person or persons being threatened. Any failure to report an incident of workplace violence may subject the non-reporting employee to disciplinary action up to termination.

The City understands the sensitive nature of the information required in the reporting of actions of this nature and will maintain the confidentiality of such information when at all possible. However, the City will provide all information necessary to the appropriate authorities in order to conduct a full and thorough investigation. (Rev. 12/11/06)

SECTION VIII - SEPARATIONS AND DISCIPLINARY ACTIONS

A. TYPES OF SEPARATIONS

All separations of employees from positions with the City shall be designated as one of the following types and shall be accomplished in the manner indicated: resignations, lay-offs, inability to perform the essential functions of the job with or without reasonable accommodation, death, retirement, and dismissal. At the time of separation and prior to final payment, all records, assets, and other items of City property in the employee's custody must be transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation.

B. RESIGNATION

In the event an employee decides to leave the City's employment, a two (2) weeks' notice shall be given to his/her Supervisor so that arrangements for a replacement can be made. In such a case employees will be expected to return any/or all City equipment assigned. An unauthorized absence from work for a period of three (3) consecutive working days may be considered by the Department Head as a resignation.

If a former employee returns to City employment, his/her status of seniority, pay, leave, etc., will be the same as any new employee beginning work for the first time. *However, for implementation of the 2001 Classification/Compensation Plan, prior years of service will be included in calculating total years of service. (Adopted October 22, 2001)*

C. LAY-OFF

The Department Head, upon approval from the City Manager may lay-off an employee in the City's service when he/she deems it necessary by reason of shortage of funds, the abolition of a position, or other material changes in the duties or organization of the employee's position, or for related reasons that are outside the employer's control and that do not reflect discredit upon the service of the employee.

The duties performed by an employee laid-off may be assigned to other employees already working who hold positions in the appropriate class. Temporary employees shall be laid-off prior to the lay-off of probationary or regular employees. The order of lay-off shall be in reverse order to total continuous time served upon the date established for the lay-off to become effective. A laid-off employee who is reinstated as an employee of the City within ninety (90) days from the date he/she was laid off shall be reinstated with full benefits as if they had not been laid off.

D. DISABILITY

An employee may be separated for disability when he/she cannot perform the essential functions of the job because of physical or mental impairment, which cannot be accommodated without undue hardship or because the disability poses a direct threat to the health and safety of others. Reasonable accommodations will include transfer to a comparable position for which the individual is qualified. Action may be initiated by the employee or the City, but in all cases it must be supported by medical evidence acceptable to the City Manager and the disability must prevent the employee from performing the essential functions of the job. The City may require an examination at its expense and performed by a licensed physician of its choice. (Ref. Section V, Item F, Medical Examination of Essential Functions and General Physicals.)

E. RETIREMENT

Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate retirement system.

F. DEATH

Separation shall be effective as of the date of death of an employee. All compensation due in accordance with these rules shall be paid to the estate of the employee, except for such sums as by law must be paid to the surviving spouse.

G. DISCIPLINARY ACTION

Whenever an employee's performance, attitude, work habits or personal conduct fall below a desirable level, Supervisors shall inform employees promptly and specifically of such lapses and shall give them counsel and assistance. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action. In some instances, a specific incident in and of itself may justify severe initial disciplinary action; however, the action to be taken depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct. The types of disciplinary actions are:

1. Verbal warning
2. Written reprimand
3. Suspension
4. Demotion (rev. 12/11/06)
5. Dismissal

H. VERBAL WARNING

Initial action by the Supervisor in situations that do not warrant more severe action shall be to inform the employee promptly and specifically of such conduct that falls below desirable levels and to give the employee counsel and assistance. The Supervisor shall make documentation of the verbal warning to include the date of the warning, what was said to the employee, and the employee's response, and will forward the warning through the proper levels of supervision to the Department Head. No signature by the employee is required. The Supervisor should inform the employee that if the conduct continues, further disciplinary action will be taken. (Rev. 12/11/06)

I. WRITTEN REPRIMAND

In situations where a verbal warning has not resulted in the expected improvement, or when more severe initial action is warranted, the employee will be informed of the undesirable level of conduct and a written reprimand will be prepared and presented to the employee. The reprimand may be sent by certified mail if appropriate. The written reprimand should be signed by the employee acknowledging receipt of the reprimand. If the employee refuses to sign the reprimand, the Supervisor should note this on the reprimand, and the note should be initialed by the Supervisor and any other witnesses present when the reprimand was presented to the employee. The Supervisor should inform the employee that if the conduct continues, further disciplinary action will be taken. (rev. 12/11/06)

J. SUSPENSION

Any employee may be suspended without pay by the City Manager or Department Head for a period of time deemed appropriate under the circumstances (Rev. 3/28/05). Pursuant to the Appeals Procedures, a written statement of the reason for suspension shall be submitted to the employee affected and to the City Manager at least twenty-four (24) hours prior to the time the suspension becomes effective, provided, that during the advanced notice period the employee may be retained in duty status, placed on leave, or suspended with or without pay at the discretion of the Department Head. The employee will be granted a hearing before the City Manager, upon request, pursuant to the appeals process. An employee determined to be innocent of the charges shall be returned to duty with full pay for the period of suspension. All records associated with a suspension shall become a permanent part of the employee's personnel file. Under certain circumstances (such as those listed in Section K below), an employee may be suspended without twenty-four (24) hour's notice, if in the best interest of the City (Rev. 1-25-99)

K. DEMOTION

An employee may be subject to demotion as a form of disciplinary action in situations where other forms of disciplinary action have not resulted in the expected improvement, the conduct does not warrant dismissal, and there is a position available for which the employee is qualified. Pursuant to the Appeals Procedure, notice of the demotion will be given to the affected employee at least twenty-four hours prior to the time the demotion becomes effective. The employee upon request will be granted a hearing before the City Manager. (rev. 12/11/06)

L. DISMISSAL

The Department Head and City Manager may dismiss an employee for good of the City service. Reasons for dismissal may include, **BUT SHALL NOT BE LIMITED TO:**

1. Incompetence or inefficiency in the performance of duties;
2. Conviction of a criminal offense or of a malfeasance involving moral turpitude;
3. Violation of any lawful and reasonable regulation, order, or direction made or given by a superior; or insubordination that constitutes a serious breach of discipline;
4. Being intoxicated or drinking any intoxicating beverages while on duty, or being under the influence of a drug or narcotic while on duty;
5. Theft, destruction, carelessness, or negligence in the use of the property of the City;
6. Disgraceful personal conduct or language toward the public or toward fellow officers or employees;
7. Unauthorized absences or abuse of leave privileges;
8. Incapacity to perform essential functions of a job because of a permanent or chronic physical or mental defect that cannot be reasonably accommodated;
9. Acceptance of any valuable consideration which was given with the expectation of influencing the employee in the performance of his/her duties;
10. Falsification of records or use of official position for personal advantage;

11. Loss of an employee's drivers license and driving privileges by due process of law when the employee's position makes the operation of a motor vehicle necessary in the performance of his/her duties;
12. Violation of any of the provisions of the City Charter, Personnel Ordinance, or these rules.

The employee shall be furnished an advance written notice containing the nature of the proposed action, the reasons therefore, and his/her right to appeal the charges orally and/or in writing before the City Manager, notwithstanding provisions noted in Section VIII subsection J indicating that during the advance notice period the employee may be retained in duty status, placed on leave, or suspended with or without pay at the discretion of the Department Head. The notice shall be furnished at least one (1) calendar week prior to the proposed effective date of the action. If the employee fails to respond to the advance notice pursuant to the appeals process, the proposed action shall be effective on the date specified with no need for further action.

M. GRIEVANCE PROCEDURES

The most effective accomplishment of the work of the City requires prompt consideration and equitable adjustments of employee grievances. A grievance is defined as an employee's feeling of dissatisfaction, a difference, disagreement, or dispute arising between an employee and his supervisor and/or employer with some aspect of his/her employment, application, or interpretation of regulations and policies, or some management decision affecting him/her. A grievance can be something real, alleged, or a misunderstanding concerning rules and regulations or an administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, position classification, transfer, layoff, recall and any other related items. Such misunderstandings, complaints, points of view and opinions will be considered a grievance except in cases where they relate to personnel action arising out of pay, suspension, and dismissal.

It is the desire of the City to address grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional grievances which will be resolved only after a formal appeal and review.

Accordingly the following procedure is established to insure fair and impartial review:

STEP ONE: The employee makes an oral or written presentation of the grievance to the immediate Supervisor within twenty (20) working days from the incident which prompted the grievance. It shall be the supervisor's responsibility to promptly investigate the grievance, discuss the matter with

the Department Head, and take action if possible. The Supervisor shall inform the employee in writing of the decision and any action taken within seven (7) working days from the date the grievance was filed.

STEP TWO: If the grievance cannot be resolved between the employee and the Supervisor during Step 1, the employee may reduce the complaint or grievance to writing and request that the written statement be delivered to the Department Head within three (3) working days of receipt of the Department Head's or Supervisor's response. If the employee is not satisfied with the response of the Department Head, he or she must proceed to Step 3.

STEP THREE: If the grievance is not resolved with the Department Head, the employee may request, in writing within three (3) working days, review by the Human Resources Committee. The Committee shall make such investigation and obtain the information sufficient to review the grievance within seven (7) working days, and will respond to the employee and the employee's Department Head in writing.

STEP FOUR: If the employee is not satisfied with the Human Resources Committee's response, the employee may, within three (3) working days of receiving the Committee's response, request in writing a hearing with the City Manager. The City Manager shall have ten (10) calendar days to schedule a hearing after which a written response shall be made to the employee with copies to the immediate Supervisor and the appropriate Department Head. Every attempt will be made to resolve the employee's grievance, but the decision of the City manager shall be final and binding on all parties involved unless appealed to Chancery Court by the employee or the City.

N. APPEALS PROCESS

Any City employee reprimanded, suspended, demoted, or dismissed may submit a request in writing to the City Manager to have the action reviewed. An employee must submit the request for an appeal within two (2) working days of receipt of notification of the disciplinary action, and must also state his/her intent to have representation, and to name the representative(s). The City Manager shall schedule a hearing within ten (10) working days of the receipt of the employee's request for appeal. The action of the City Manager shall be final and binding on all parties involved unless appealed to Chancery Court by the employee. However, if the City Manager determines that procedures established by law were not followed by the appropriate Supervisor and/or Department Head, the decision of the City Manager shall be binding on all parties involved unless appealed to Chancery Court by the employee or the City.

SECTION IX - AMENDMENTS TO THE PERSONNEL RULES

A. HUMAN RESOURCES COMMITTEE AND AMENDMENTS

There is hereby created a Human Resources Committee for the City of Cleveland. The committee shall consider all proposed amendments or revisions to these rules; act as the City's Safety Committee; rule on all grievances filed under these rules; act as the City's Americans with Disabilities Act (ADA) Compliance Committee; and consider any other personnel related matters which might arise.

The Human Resources Committee shall consist of the following members:
(January 8, 2001) (April, 2001)

Personnel Director
Non-voting, staff liaison
Mayor/Council's Executive Assistant
Non-voting, City Council Liaison

- 1) Administration and Finance Department Representative
- 2) Cleveland/Bradley Communication Center Representative
- 3) Fire Department Representative
- 4) Parks and Recreation Department Representative
- 5) Planning and Inspections Department Representative
- 6) Police Department Representative
- 7) Public Works Department Representative

For purposes of safety issues and ADA compliance, one representative each from the Cleveland Library, Cleveland Utilities, and the Cleveland City Schools shall be appointed. These three representatives shall have no vote or right of discussion on any proposed amendments or revisions to these rules, or on any grievance filed under these rules, because they are not governed by them.

The Personnel Director and the Mayor/Council Executive Assistant shall serve on the committee by virtue of the office they hold. All other members shall be recommended by the Department Head of the respective department. The City Council will either approve or deny each recommendation. If they deny a recommendation, the Department Head shall submit another candidate until the City Council approves one. In the initial formation of the committee, two members shall be appointed for one year terms, two members for two year terms, and two members for three year terms. Thereafter, all members shall serve three year terms. Which members shall serve the initial one, two, and three year terms shall be decided by drawing lots.

In the initial formation of the committee, one of the representatives from the Cleveland Library, Cleveland Utilities, and the Cleveland City Schools shall serve a one year term, another a two year term, and the other a three year term. Thereafter, all will serve three year terms. Which members shall serve the initial one, two, and three year terms shall be decided by drawing lots.

In addition to the representatives appointed from the six departments, the Library, Cleveland Utilities, and the Cleveland City Schools, the City Council shall appoint one alternate for each representative, who shall exercise all rights and duties of the representative in his absence from a meeting of the committee. Each alternate shall be recommended and approved in the same manner as used for committee member appointments.

Any proposed amendments or revisions of these rules shall be reviewed by the Human Resources Committee prior to any action on the proposal by the City Council. The committee will make a written recommendation to the City Manager within fifteen (15) days of receiving the proposed amendments or revisions. The committee's recommendation shall be forwarded by the City Manager to the City Council along with the proposed amendment. Such amendments or revisions of these rules shall become effective only after approval by resolution of the City Council. (Rev. 1/22/01)

B. SEVERABILITY

Each section, subsection, paragraph, sentence, and clause of this policy document is hereby declared to be separable and severable. The invalidity of any section, subsection, paragraph, sentence or clause shall not affect the validity of any other portion of these rules, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted.

C. SPECIAL NOTE

These personnel policies are believed to be written within the framework of the Charter of the City of Cleveland but in case of conflict, the Charter takes precedence.

