City of Chattanooga
Employee Information Guide

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Department of Human Resources

Andy Berke, Mayor

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SECTION I – INTRODUCTION

A. PURPOSE AND OBJECTIVES

The purpose of this Employee Information Guide is to establish a fair and uniform system of policies, procedures and expectations for all employees of the City. Full understanding and compliance is expected of all employees in order that the most effective services possible may be delivered to the citizens of the City.

In order to accomplish this purpose, the City shall:

1. Provide fair and equal opportunity to all qualified individuals based on merit and fitness, without regard to age, sex, race, color, religion, disability, national origin, protected veteran or military status, sexual orientation, gender identity, ethnic origin, political affiliations, genetic information, marital status or any other protected basis in accordance with applicable federal, state and local laws except where such category or class constitutes a bona fide occupational qualification; and

2. Promote high morale among the employees by providing good working relationships, a uniform personnel policy, opportunity for advancement, and consideration for employee needs.

The Employee Information Guide and all other City manuals do not bestow any additional rights to employees regarding employment or employment benefits. These policies and procedures are not part of a contract, and no employee has any contractual right to the matters set forth herein. The City reserves the right to change any and all such policies, practices, and procedures in whole or in part at any time, with or without notice to employees.

The Employee Information Guide applies to all City employees and is available to all employees. Any employee who desires to review the Guide during work hours may review it online at the City's intranet website or in the Human Resources Department. For additional information, clarification or definitions of specific terms used in this Guide, employees should contact the Human Resources Department.

B. ADMINISTRATION

The City Human Resources Department shall have the responsibility for administering a comprehensive human resource program for all City employees. The duties of the Human Resources Director shall include but not be limited to the following:

1. Direct and oversee the operations of the Human Resources Department;

2. Manage recruitment functions such as workforce planning and the recruitment and selection process to include attracting and identifying the most qualified candidates;

develop and direct employee relations programs to include encouraging proactive employee engagement and providing guidance to departments on matters such as conduct and job performance;

3. Oversee health and safety programs to include wellness-related programs and incentives;

4. Develop and oversee employee training and development programs to include assessing training needs and creating training curriculum;

5. Manage the job classification and compensation plans to ensure that jobs are properly classified and compensated based on the job duties and requirements; and

6. Support management by providing Human Resources advice, counsel, and recommendations on personnel matters.

C. AMENDMENTS TO PERSONNEL POLICIES

Amendments or revisions to these regulations, policies and procedures may be recommended for adoption by the Mayor with the approval of the City Council by resolution. Such amendments or revisions of these regulations, policies and procedures shall become effective upon approval by the City Council.

All departmental regulations, policies and procedures as presently constituted or hereinafter adopted, which are not in conflict with these regulations, policies and procedures shall be in effect.

D. COMPLIANCE

The City has made every effort to ensure the policies in the Employee Information Guide are in compliance with all federal, state, and local employment laws and regulations. In the event that a provision in the policies is in conflict with a federal, state, or local law or regulation, the appropriate law or regulation shall prevail, and the provision in the Employee Information Guide shall be deemed amended to the extent necessary to comply with such law or regulation.

SECTION II – CLASSIFICATION PLAN

A. PURPOSE

The Human Resources Department will maintain a Classification Plan that provides a listing of employment positions in the City. The Classification Plan provides a complete inventory of all positions in the City's service and an accurate description and specifications for each job classification. Job classifications are based on an analysis of the duties and responsibilities of

each position and include minimum requirements of education, training, experience, skills, knowledge, and abilities necessary for the job.

B. USE OF JOB DESCRIPTIONS

Job descriptions are a mechanism of communicating goals, objectives, values and expectations between employees and supervisors. The job descriptions will contain a general description of the position, essential functions, and additional duties of the job. It should be noted that these elements listed are not entirely inclusive or descriptive of all duties.

The job description shall also contain minimum training and qualifications and the ADA Amendments Act (ADAAA) elements and standards required to perform essential job functions. The minimum qualification standards on job descriptions should serve as norms for applicants coming into the job setting and should also serve as a basis for performance indicators in meeting the expectations of the City for each employment position.

C. USE OF THE CLASSIFICATION PLAN

The Classification Plan may be used:

1. As a guide in recruiting and examining candidates for employment;

2. In determining lines of promotion and developing employee training programs;

3. In determining salaries to be paid for various types of work; and

4. In providing uniform job terminology understandable by all City officials and employees and by the general public.

D. ADMINISTRATION OF THE CLASSIFICATION PLAN

In conjunction with the Department Heads and incumbent employees, the Human Resources Department shall be responsible for maintaining accurate job descriptions in the Classification Plan that reflect the duties that each employee performs. Employees and their supervisors shall maintain open communications and dialogue to ensure that job descriptions are reviewed and updated on an annual basis or as needed. The Human Resources Department will conduct a review of the entire Classification Plan by examining the nature of the position classes and recommending the appropriate changes in allocations or in the Classification Plan itself. This review will be conducted every three (3) years or when feasible as determined by the Human Resources Department and Administration.

Job descriptions are available on the City's website. Employees may review these specifications online at any time, or they may request a copy from their department or the Human Resources Department.

E. REQUEST FOR JOB EVALUATION/RE-EVALUATION

When a new position is established or duties of an existing position substantially change, the Department Head or designee shall submit to the Human Resources Department a comprehensive Job Analysis Questionnaire that describes the duties of the position and the necessary qualifications, a draft job description, and a request to evaluate the position. Employees who believe their job duties vary substantially from their job description may request a review and assessment by submitting the request to their direct supervisor. The Human Resources Department shall review the current and new job duties provided by the Department Head and provide an assessment and recommendation to the Department Head on whether a change in classification is warranted. The job description for a new position or a revised job description for a current position shall be approved by the City, when required, prior to inclusion in the Classification Plan. Supervisors shall notify employees who are impacted by reclassification changes at least two (2) weeks prior to the effective date of the change or as soon as feasible.

SECTION III – COMPENSATION PLAN

A. PURPOSE

The City shall maintain a Compensation Plan that assigns pay ranges to each employment position identified in the City's Classification Plan. The Compensation Plan is intended to provide fair compensation for all classes of positions in the Classification Plan. The salary of each employee shall be set within those established ranges as approved by the City, within budgeted fiscal resources.

The Compensation Plan is to be used in consideration of pay ranges for other job classes, general pay rates for similar employment in private establishments and other public jurisdictions in the area, cost of living data, the financial condition of the City, and other factors. To this end, the City may develop comparative studies of factors affecting the level of salary ranges and make recommendations to the Administration and City Council during the budget approval process.

The City shall adhere to the provisions of the United States Department of Labor's Fair Labor Standards Act (FLSA) as applied to Tennessee municipalities.

B. MAINTENANCE OF THE COMPENSATION PLAN

The Human Resources Department will conduct compensation studies with public agencies that are similar in structure and size. All factors affecting the level of salary ranges shall be reviewed, and recommendations shall be made to the Administration and City Council regarding any proposed changes in salary ranges as needed. Adjustments will be made by increasing or decreasing the salary ranges.

A Department Head may submit a request for a salary review to the Human Resources Department if he/she considers a position in his/her Department to be improperly

compensated. Employees may request a review and assessment by submitting the request to their director supervisor. The Human Resources Department shall conduct a salary analysis and forward a written recommendation to the Department Head. The Human Resources Department in collaboration with the Department Head may authorize salary adjustments as needed.

C. USE OF SALARY RANGES

Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same class.

Employees are generally hired at the minimum pay rate established for a job classification; however, some employees may be hired at a higher rate depending on their experience and education. Any Department Head desiring to hire an applicant at a salary rate above the minimum must submit a written justification to the Human Resources Department for approval. No employee may be paid at a rate less than the minimum of the salary range nor more than the maximum pay range prescribed for the class in which the employee is working as set forth in the Compensation Plan. In accordance with the FLSA, no City employee shall be paid less than the federal minimum wage unless his/her position is exempt from FLSA minimum wage provisions.

D. OVERTIME PAY AND COMPENSATORY TIME

A supervisor may require an employee to work at any time when circumstances require work beyond his/her regular work schedule. In accordance with the FLSA, non-exempt City employees, with the exception of law enforcement and fire protection personnel, shall be compensated for actual time worked in excess of forty (40) hours in a workweek at the rate of time and one-half. Paid leave such as holiday and personal leave does not apply toward time worked.

Non-exempt employees may elect to receive compensatory time in lieu of overtime pay. Compensatory time is time off instead of monetary overtime compensation at a rate of one and one-half (1½) hours of compensatory time for each hour of overtime worked. Employees may accrue up to two-hundred forty (240) hours of compensatory time. Non-exempt sworn employees may accrue up to four-hundred eighty (480) hours of premium compensatory time.

Department Heads can require that compensatory time be used within the same calendar year. The City reserves the right to cash out an employee's compensatory time at any time during the employee's tenure. A non-exempt employee who has accrued compensatory time shall be permitted to use such time off within a reasonable period after making a request to use such time, unless such use would unduly disrupt the operations of his/her department and not just cause mere inconvenience.

Records of employee compensatory balances for non-exempt employees shall be maintained in the departments. Employees requesting compensatory time must record the actual hours worked each work day on the time sheets submitted for payroll. Written approvals and leave requests shall be maintained in the payroll and personnel files.

Each Department Head or designee shall be responsible for establishing work schedules and work periods for employees within his/ her department so as to minimize the amount of overtime pay and compensatory time. Overtime pay or compensatory time shall be awarded to an employee in quarter hour increments after working their standard workweek or work period.

Upon separation of employment, a non-exempt employee shall be paid for documented unused compensatory time. Payment for compensatory time shall be made at the rate earned by the non-exempt employee at the point the employee utilizes the compensatory time.

Non-exempt employees shall work beyond their scheduled number or work hours only when it has been authorized in advance by the Department Head or supervisor. Any employee who fails to obtain authorization for working beyond the maximum allowable hours shall be subject to disciplinary action. However, no Department Head or supervisor shall deny overtime pay or compensatory time for work that has already been performed.

Employees affected by a change in their classification from non-exempt to exempt status or from exempt to non-exempt status shall be notified by their Department Head of the change in their status and any overtime pay provisions within thirty (30) days. Any compensatory leave earned as a non-exempt employee shall either be used prior to becoming an exempt employee or the balance paid as overtime pay.

The Fire Chief and Police Chief shall establish written policies on premium compensatory leave and pay calculations for employees engaged in fire protection or law enforcement activities, based on local, state or federal law. Such policies shall comply with the provisions of the FLSA.

E. CALL-BACK PAY

Non-exempt employees who are unexpectedly called back to their office or a work area due to an urgent situation after normal working hours shall receive two (2) regular hours of call-back pay in addition to the actual number of hours worked. Non-exempt employees who are expected to respond to an urgent situation by telephone or computer shall be paid for actual time worked when responding to each situation requiring an immediate response. If the employee is still needed to report to work after normal working hours, then he/she will receive two (2) additional hours of call-back pay in addition to the actual number of hours worked. Employees must log hours on a time sheet which will then be used as documentation to support changes in the City's time clock system and/or payroll system and will be submitted as part of the City's permanent payroll record. Compensable time shall not include the time it takes to travel to and from the office or work area by the most direct route.

Pay for scheduled overtime and the requirement to unexpectedly report to work early or stay over shall not constitute call-back pay. The two (2) hours of call-back pay is not subject to overtime, but the actual time the employee works over his/her standard hours for the work week shall be subject to overtime. Non-exempt employees, with the exception of departments/divisions that have regularly scheduled work shifts twenty-four (24) hours

each day-seven (7) days a week, who are unexpectedly called back to their office or a work area due to an emergency situation on an official City holiday shall be paid two (2) hours of call-back pay in addition to the actual number of hours worked at the rate of one and one-half (1 ½) times the employees' hourly rate.

F. ON-CALL PAY

On-call service is necessary for the proper maintenance and operation of certain City services. On-call time is defined by departmental needs as a period of time in which an employee is required to be available to report to work at the City's discretion.
Supervisors must review their employee's on-call circumstances to determine the level of restrictions involved. They must determine:

1. The response time required;
2. The average number of times called per week (or a reasonable estimate); and
3. Any limitations required to perform on call work such as tools required.

Supervisors will ensure they have appropriate and updated contact information, including current phone numbers, for on-call employees, and employees designated and compensated for being on-call shall ensure they respond when contacted and report to work when needed. They are also restricted from consuming alcohol or other substances that could impair their ability to respond.

Department Heads are responsible for identifying positions that are subject to on-call provisions. Supervisors shall notify employees in advance of on-call status and the length of time expected to be on-call. For designated on-call non-exempt employees, a rate of seventy dollars ($70.00) per week will be paid. If a non-exempt employee is designated to be on-call for less than seven (7) days, then the rate of ten dollars ($10.00) per day will be paid. The ten dollars ($10.00) per day for on-call pay will be in addition to the call-back pay the employee is entitled to receive in accordance with Section III (E).

G. REPORTING PAY

Reporting pay will be granted when employees report for work and no work is available. Reporting pay will not be granted if the lack of work is the result of conditions beyond the City's control, if the City makes a reasonable effort before starting time to notify employees not to report, or if employees refuse to accept other available work that they are qualified to perform. Employees will be granted four (4) hours reporting pay. Personal leave or compensatory time may be used to make-up for pay that would otherwise be lost.

H. PAY RATES FOR CHANGES IN STATUS

The following pay policies shall be effective in relation to promotions, demotions, transfers and reclassifications. This list is not inclusive.

1. **Promotion -** When an employee is promoted to a position in a higher salary grade, the

rate of pay shall be at least the minimum rate of the new position range and not be lower than the employee's current pay rate.

2. **Demotion -** When an employee is voluntarily or involuntarily demoted to a lower salary grade, the employee's rate of pay shall be reduced to a lower rate comparable to other employees performing similar job duties.

3. **Transfer -** When an employee is transferred to the same position that is classified in the same salary grade, he/she may not receive a pay increase. However, depending upon the job responsibilities and qualifications of the new position, a pay increase may be warranted for transfers to different positions in the same pay grade.

4. **Reclassification -** When an employee's position is reclassified to a higher salary grade, the employee shall receive a pay increase. When an employee's position is reclassified to a lower salary grade or remains on the same salary grade, the employee's salary shall not change.

5. **Temporary Assignment –**When an employee is temporarily assigned higher level responsibilities, the employee may receive a temporary pay increase for up to six (6) months. The Department Head may request approval for additional compensation when an employee temporarily assumes responsibilities that are significantly outside the scope of their normal job duties. Department Heads, managers and supervisors are not eligible for additional compensation when performing tasks of subordinates in their department.

<u>Long-term Pay for Temporary Assignments</u>
Requests for pay for temporary assignments shall be requested in advance of the assignment when an employee will temporarily perform substantially higher level duties of a vacancy caused by employee separation, an approved leave that exceeds thirty (30) days, or a limited term project. The employee should not perform these temporary duties longer than six (6) consecutive months at which time the additional compensation would expire.

<u>Short-term Pay for Temporary Assignments</u>
Pay for temporary assignments for a duration of less than thirty (30) days may be requested when an employee is required by department leadership to assume duties of a supervisor or manager in the absence of that supervisor or manager.

Calculations for Pay for Temporary Assignments based on Pay Plans

1. Temporary pay will be calculated for employees in the City's General Pay Plan based on the range of the acting capacity position or higher level/salary grade of the duties assumed. The rate of pay shall be at least the minimum rate of the assumed position range. If the minimum of the assumed position range is less than a 5% difference of the employee's current salary, then a 5% increase will be applied.

2. Temporary pay will be calculated for employees in the Police and Fire Sworn Pay Plans as a monthly stipend and will be calculated based on tenure of the employee and the assumed rank salary level.
3. Temporary pay will be calculated for employees in the Headstart Grant Funded Pay Plan based on the qualifications of the employee and the position or higher level/salary grade and step.

I. EMPLOYEE PAY

The City makes every effort to ensure that employees receive their pay on time. City employees shall be paid generally through direct deposit on a bi-weekly basis, with payday being every other Thursday. There are some employees who were hired before the bi-weekly conversion and remain on a weekly basis. Those employees are paid every Thursday. Employees who are currently paid on a weekly basis and receive a promotion shall be moved to a bi-weekly basis. Employees with questions about their pay should contact the designated pay clerk for their division/department within the pay period in question or immediately thereafter. If a pay clerk is not available, contact the Payroll Office.

1. **Final Pay** – Employees who separate from City employment shall be paid their wages in full on the next regular payday, not to exceed twenty-one (21) days from the date of separation. In unusual circumstances, a Department Head may make arrangements for earlier payment.

2. **Lost Paychecks** – Employees are responsible for their paychecks after they have been issued. Checks lost or otherwise missing should be reported immediately to the Payroll Office so that a stop-payment order may be initiated. The Payroll Office shall determine if and when a new check should be issued to replace a lost or missing check. This replacement check may take up to seven (7) days, depending upon the circumstances.

3. **Unclaimed Paychecks** – Paychecks not claimed by employees within one (1) week of the date issued must be returned by the supervisor to the Payroll Office.

If an employee is absent on payday and does not receive pay by direct deposit, the employee may have someone else pickup his paper check. The paycheck shall be provided to that individual if the designee provides the employee's identification and written authorization signed by the employee.

J. PAYROLL DEDUCTIONS

By law, the City is required to deduct, where applicable, federal withholding taxes, Social Security taxes (except sworn employees), Medicare, and garnishments from an employee's pay. Below is information regarding federal and social security taxes as well as other possible deductions:

1. **Federal Income Tax** – Federal taxes are withheld from employees' pay based on the number of dependents claimed by each individual. Supplemental payments are taxed at the twenty-five percent (25%) rate. Employees are required to file with the City a copy of the W-4 form. In the event of changes in the employee's exemption status, a revised W-4

form must be filed before payroll deduction adjustments will be made.

2. **Social Security** – Social Security payments and deductions will be made according to the Federal Insurance and Compensation Act (FICA). The Finance Department shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.

3. **Others** – Other City authorized deductions will be made from an employee's pay only with the employee's signed consent. (The list below is an example of other deductions and is not all inclusive).

   a. Medical insurance
   b. Life insurance
   c. Dental insurance
   d. Vision insurance
   e. Disability insurance
   f. Deferred compensation payments
   g. Supplemental insurance approved by the City
   h. Charity contributions approved by the City

Court-ordered deductions such as garnishments, child support, bankruptcy orders, and tax levies shall be made according to federal, state and local regulations.

K. LONGEVITY PAY

Longevity pay is determined by the Mayor and City Council and is subject to the availability of funds. Regular full-time employees begin participating in the program after five (5) years of eligible service as a reward for their service to the City. Longevity payments are distributed annually.

SECTION IV – EMPLOYMENT

A. EQUAL EMPLOYMENT OPPORTUNITY

The City provides equal opportunity to all employees and applicants without regard to age, sex, race, color, religion, disability, national origin, protected veteran or military status, sexual orientation, gender identity, ethnic origin, political affiliations, genetic information, marital status or any other protected basis in accordance with applicable federal, state and local laws except where such category or class constitutes a bona fide occupational qualification.

Definitions

Age: For purposes of sections that address nondiscrimination, age means forty (40) or more years of age.

Disability*:* With respect to an individual, disability means (a) a physical or mental impairment that substantially limits one or more major life activities, as defined by the Americans With Disabilities Act and the ADA Amendments Act, of such individual; (b) a record of such an impairment; or (c) being regarded as having such an impairment. This term does not include the current, illegal use of or addiction to a controlled substance as defined under state and federal law.

Ethnic Origin*:* an individual's actual or perceived heritage and common ancestry or shared historical past as well as identifiable physical, cultural, or linguistic characteristics.

Gender Identity: the actual or perceived gender-related identity, appearance, or mannerisms, or other gender-related characteristics of an individual, with or without regard to the individual's sex at birth.

Military Service: a person who is serving or has served in a uniformed service, and who, is discharged, was discharged or released under conditions other than dishonorable. Uniformed services is defined as set forth in 20 C.F.R. 1002.5(c).

Religion*:* includes all aspects of religious observance and practice, as well as beliefs; unless the City demonstrates that it is unable to reasonably accommodate an employee's or perspective employee's religious observance or practices without undue hardship on the conduct of the City's business.

Sexual Orientation: the actual or perceived status of the person with respect to his or her sexuality.

B. ANTI-HARASSMENT

As an equal opportunity employer, the City is committed to promoting and maintaining a working environment free of all forms of sexual and other unlawful harassment and discrimination. Simply put, the City does not and will not tolerate harassment of its employees.

Any form of harassment related to an individual's age, sex, race, color, religion, disability, national origin, protected veteran or military status, sexual orientation, gender identity, ethnic origin, political affiliations, genetic information, marital status or any other protected basis in accordance with applicable federal, state and local laws is a violation of this policy and will be treated as a disciplinary matter.

The term “harassment” includes, but is not limited to, slurs, jokes and other verbal, graphic, or physical conduct, statements, or materials relating to an individual’s age, sex, race, color, religion, disability, national origin, protected veteran or military status, sexual orientation, gender identity, ethnic origin, political affiliations, genetic information, marital status or any other protected basis in accordance with applicable federal, state and local laws. “Harassment” also includes sexual advances, requests for sexual favors, unwelcome or offensive touching, sexually provocative or abusive language, and other verbal, graphic, or physical conduct of a sexual nature.

Unlawful harassment may result in the loss of a tangible job benefit, take the form of an implied or express condition of employment, or it may result in an unduly hostile or oppressive work environment. If any employee has any questions about what constitutes harassing behavior, such employee is encouraged to contact his/her supervisor or the City Human Resources Director. This policy does not in any way prohibit an employee’s religious identity. City employees cannot be denied jobs, lose their employment or be demoted for stating and/or exercising their religious identity as guaranteed under the United States Constitution and state law.

The City expressly prohibits any form of unlawful employee harassment. Interference with the ability of City employees to perform their expected job duties shall not be tolerated. The City also prohibits retaliation against employees who have reported discrimination. Any employee who believes he/she has been discriminated against in violation of this Section should report it in accordance with reporting procedures outlined in this Section.

Any employee who feels he/she is being subjected to harassment by anyone, including a co-worker, supervisor, or visitor, has an obligation to immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

1. The Employee's immediate supervisor;

2. The Employee's Department Head;

3. The Human Resources Quality Assurance Officer;

4. The Human Resources Director; or

5. The Mayor.

Employees have the right to circumvent the employee chain of command in selecting which person to whom to make a complaint concerning harassment. Regardless of the specific person to whom an employee makes a complaint of harassment, the employee should, to the

extent possible, provide the following information:

1. The employee's or official's name, department, and position title;

2. The name of the person or persons committing the harassment, including their title(s), if known;

3. The specific nature of the 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;

4. Any and all witnesses to the harassment; and

5. Whether such harassment has been previously reported, and, if so, when and to whom.

All complaints will be promptly investigated as confidentially as possible, and, where appropriate, disciplinary action, up to and including discharge, will be taken.

The Human Resources Director or his/her authorized representative is designated by the City to be the investigator of complaints of harassment against employees. In the event the harassment complaint is against the Human Resources Director, the investigator shall be a City employee appointed by the Mayor.

When an allegation of 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 Human Resources Director, or in the event the harassment complaint is against the Human Resources Director, to the Mayor.

The Human Resources Director or his/her authorized 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 harassment, witnesses interviewed during the investigation, the person against whom the complaint of 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.

When the investigator receives a complaint of harassment, he or she shall immediately:

1. Obtain a written statement from the person complaining of harassment which includes a comprehensive report of the nature of the harassment complained of, the times, dates, and places where the harassment occurred; and the investigator shall verbally question the person complaining of harassment about any information in the written statement which is not clear or needs amplification.

2. Conduct interviews with witnesses and create a comprehensive report of the nature of

the conduct witnessed, the times, dates, and places where the conduct occurred, and the conduct of the person complaining of harassment towards the person against whom the complaint of harassment was made.

3. The investigator shall verbally question the person against whom the complaint of harassment.

4. Prepare a report of the investigation, which includes the summary statement of the person complaining of harassment, the summary statements of witnesses, the summary statement of the person against whom the complaint of harassment was made, and all of the investigator's notes connected to the investigation, and submit the report to the Human Resources Director or designee and Department Head.

Complaints against an Elected Official

Complaints of harassment against elected legislative and judicial officials shall be investigated by a City employee appointed by the Mayor and any such complaints against the Mayor shall be investigated by a City employee appointed by the City Council.

The investigator shall investigate the complaint against an elected official in the same manner as is outlined in this policy for the investigation of complaints against employees. However, upon completion of the investigation, the investigator shall submit the report of the investigation to the person or body appointing him/ her.

Complaints against an Employee

Upon receipt of a report of the investigation of a complaint of harassment against an employee, the Department Head of the department involved shall immediately review the report. If the Department Head of the department from which a harassment complaint is made determines that the report is not complete in some respect, he/ she may question the person complaining of harassment, the person against whom the complaint of harassment has been made, witnesses to the conduct in question or any other person who may have knowledge about the conduct in question. The Department Head of the department from which a harassment claim is made shall also keep written records of his/her investigation in the same manner prescribed for the investigator. However, if the Department Head of the department from which a harassment claim is made feels that the investigation report is adequate, he/ she may make a determination of whether harassment occurred, based on the report.

Based upon the report, and his/her own investigation (where one is made) the Department Head of the department involved shall, within a reasonable amount of time not to exceed five (5) working days, determine whether the conduct of the person against whom a complaint of harassment has been made constitutes unlawful harassment. In making that determination, the Department Head of the department involved shall look at the record as a whole and the totality of the 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 of harassment. The determination of whether harassment occurred will be made on a case-by-case basis.

If the Department Head of the department involved determines that the complaint of harassment is founded, he/she shall take immediate and appropriate disciplinary action against the employee accused of harassment, consistent with his/her authority under the City charter, ordinances, resolutions or rules governing his/her authority to discipline employees.

The disciplinary action shall be consistent with the nature and severity of the offense.

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 action taken shall be kept, including verbal reprimands. In all events, an employee accused of harassment shall be warned not to retaliate in any way against the person making the complaint of harassment, witnesses or any other person connected with the investigation of the complaint of harassment.

In cases where the harassment is committed by a non-employee against a City employee in the workplace, the Department Head of the department involved shall take whatever lawful action against the non-employee as is necessary to bring the harassment to an immediate end.

The City Council may discipline an elected official in whatever manner it deems appropriate, consistent with its authority under state law, the City Charter, ordinances, resolutions or other rules governing discipline of elected officials.

Duty of Employees

Employees are obligated to report instances of harassment and to cooperate in every investigation of harassment. This obligation includes, but is not limited to, coming forward with evidence (both favorable and unfavorable to a person accused of harassment) fully and truthfully making a written report or verbally answering questions when required to do so by an investigator during the course of an investigation of harassment; and refraining from making bad faith accusations of harassment.

Disciplinary action may be taken against any employee who refuses to cooperate in the investigation of a complaint of harassment, or who files a complaint of harassment in bad faith. No employee will be penalized in any way for truthfully reporting harassment.

C. AMERICANS WITH DISABILITIES ACT AND AMENDMENTS ACT

The ADAAA are federal laws that prohibit employers from discriminating against applicants and individuals with disabilities.

The City will comply with all federal and state laws concerning the employment of persons with disabilities and will act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). Furthermore, the City will not discriminate against qualified individuals with disabilities in regard to application procedures, hiring, advancement, discharge, compensation, training, or other terms, conditions, and privileges of employment.

The City will reasonably accommodate qualified individuals with a disability as long as the accommodation does not create an undue hardship to the City. Contact the Human Resource Department with any questions or requests for accommodation.

D. RECRUITMENT

The City of Chattanooga will make every effort to attract qualified applicants for every position. In order to initiate the recruitment process, Department Heads should submit a requisition for approval. The Human Resources Department shall contact the designated Hiring Manager when the requisition has been approved.

1. Internal (In-House) Job Postings – Job announcements are sometimes posted internally, and only current City employees are eligible to apply for those positions. Internal job announcements are posted on the City's website and emailed to designated departmental contacts for posting on employee bulletin boards. Internal job postings are also available in the Human Resources Department. The posting period for internal job announcements will be at a minimum of five (5) business days. It is the Hiring Manager's discretion to post for longer periods of time. All City employees are eligible to apply for internal postings. Probationary employees are eligible to apply; however, the probationary period shall restart in the new position.

2. External Job Postings – All qualified candidates who meet the minimum qualifications for the job may apply for external job postings. External jobs announcements are posted on the City website and are emailed to designated contacts for posting. External job postings are also available in the Human Resources Department. Job announcements may be sent to additional recruiting sources as needed. The posting period for external job announcements will be at a minimum of five (5) business days. It is the Hiring Manager's discretion to post for longer periods of time. The Department Head or designee is responsible for ensuring that all job postings are posted in the designated location and for the entire posting period.

Applications

Paper employment applications may be completed and submitted to the Human Resources Department. Employment applications can also be submitted online through the City's website. Applications are only accepted for posted positions and must be submitted prior to the job posting closing date.

The Human Resources Department shall assist Department Heads in identifying qualified

employees for hiring and promotional considerations. The Human Resources Department will prepare and publicize job announcements in order to bring notice of vacancies to as many qualified persons as possible.

Qualifications for employment or in-service promotions shall be based upon qualifications. The Human Resources Department shall work closely with Department Heads to prepare relevant examination components and procedures tailored to meet the specific needs of the departments and to ensure the employment of the best qualified applicants.

Recruitment by Examinations

All non-appointed vacant positions within the City shall be filled according to qualifications, and applicants may be subject to competitive examination. All examinations shall fairly and impartially test those matters relevant to the applicant's ability to successfully perform the job. Persons employed in appointed positions will be exempt from competitive service requirements and will successfully complete pre-employment testing required for the position.

Examinations may be held to establish eligibility and fitness and may consist of one or more of the following types of examinations, as determined by the Human Resources Department:

1. Written/Knowledge-based Test – This test, when required, shall include a written demonstration designed to show the applicant's familiarity with the knowledge involved in the class of positions to which he/she is seeking employment.

2. Oral Test – This test 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 or impractical or as a reasonable accommodation to someone unable to take a written test due to a disability.

3. Performance Test – This test shall involve performance tests 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:

    a. cannot perform the essential functions of a specific position due to a disability that cannot reasonably be accommodated; and

    b. pose a direct threat to themselves or others.

4. Physical Agility Test –this 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 a weight in the examination process or may be used to exclude from further consideration applicants who do not meet the minimum required standards.

5. Polygraph Exam – this exam may be used for certain public safety positions within the

Police and Fire Department to aid in determining the truthfulness of an applicant's application/screening questionnaire, employment history, use of illegal drugs, general history, thefts from employers, criminal history, and vehicle driving record. The polygraph exam may be used to exclude from further consideration applicants who:

a. are found deceptive; or

b. are not in compliance with policy.

The Human Resources Department shall make reasonable accommodations in the examination process for applicants who submit written requests in a timely manner. Notifications shall be sent to applicants who provide a valid email address.

All employees of the City shall be residents of the State of Tennessee. This Section 3.1.1 shall only apply to those employees working in general government of the City. Those employees who were hired on or before January 18, 1990, and who have lived outside the State of Tennessee continuously since said date, shall be exempted from this Section 3.1.1.
The Mayor, at his/her discretion, may designate a residency requirement more narrowly defined based on the necessity of emergency operations.

E. POST-OFFER REQUIREMENTS

Following a conditional offer of employment, successful completion of a post-offer employment physical shall be required for all candidates to determine whether prospective employees can perform the essential functions of the position offered. The physical may require various components depending on the requirements for the position.

Prospective employees who are unable to successfully perform the essential functions tested for in the medical examination shall have their offer of employment by the City withdrawn if they:

1. Cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or

2. Pose a direct threat to themselves and/or others.

In-service promotional candidates may be required to successfully complete a post-offer physical examination, based on the requirements of the position.

All candidates shall be required to successfully complete a background check. The specific components of the background check will be based on the requirements for the position. In-service promotional candidates may also be required to successfully complete a background check if the position requirements exceed the requirements of the current position.

All City employees may, during their employment, be required to undergo an initial and/or periodic examination to determine their physical and mental fitness to continue to perform the work of their positions. As a condition of employment with the City of Chattanooga, participants of the Fire and Police Pension Fund shall be required to participate in periodic

screening tests or examinations relating to heart and lung conditions, such as but not limited to cholesterol tests, blood pressure checks, pulmonary function tests, and blood tests. If any screening examination suggests the need for a more complete medical evaluation, the employee shall be scheduled for a fitness-for-duty examination by a physician selected by the City.

F. MINIMUM AGE

The FLSA sets wage, hours worked, and safety requirements for minors (individuals under age eighteen (18)) working in jobs covered by the statute, which includes City government. The rules vary depending upon the particular age of the minor and the particular job involved. As a general rule, the FLSA sets fourteen (14) years of age as the minimum age for employment and limits the number of hours worked by minors under the age of sixteen (16). The FLSA also generally prohibits the employment of a minor in work declared hazardous by the Secretary of Labor (for example, work involving excavation, driving, and the operation of many types of power-driven equipment). The minimum age for sworn employees is twenty- one (21) years of age.

G. EMPLOYEE CLASSIFICATIONS

Employees of the City of Chattanooga are generally classified as one of the following:

1. Regular Full-time Employee – A regular full-time employee is an employee who works a minimum of thirty (30) hours per week**,** is paid an hourly or annual rate, is subject to all conditions of employment, and is eligible for all benefits offered by the City.

2. Regular Part-time Employee – A regular part-time employee is an employee who works twenty-nine (29) hours or less per week on a regular basis.

3. Temporary Employee – A temporary employee is an employee who works assigned hours, not to exceed a period of twelve (12) consecutive months and are paid on an hourly basis. Temporary employees are not eligible to receive benefits.

4. Appointed Employee- An employee appointed to a position under the direct supervision of the Mayor, City Council or Department Heads are considered to be in non-classified service and that the persons employed to fill such positions shall be exempt from competitive service requirements.

   When persons filling these positions are newly hired upon a change of elected officials or departments heads, such persons may be terminated without cause by any newly elected official or appointed department heads, such viz: mayor.

   If an elected official or department head appoints a person to a position under their direct supervision who is already employed by the City, then upon a change in administration or department head, such person who was already employed by the City will not be terminated without cause, notice and hearing before the City Council

as provided by the Charter, but may be moved to another position in the City government at a salary not less than the salary such person was being paid immediately prior to first being appointed.

5. Elected Official - A person who is an official by virtue of an election.

H. EMPLOYMENT ACTIONS

The Mayor or designee has the authority to hire, promote, demote, transfer, suspend, and remove all City officers and employees. All vacancies in the City shall be filled by new hires, re-employments, promotions, appointments, transfers, or demotions.

Whenever a Department Head wishes to fill a vacancy, a requisition shall be submitted to the Department Head for budget approval.

New Hires

All City officers, agents and employees shall be nominated, appointed or employed by the Mayor and are defined as new hires during the first six (6) months of initial employment or reemployment. The Human Resources Department shall keep a record of qualified applicants for the various positions in the Classification Plan and, except for non-classified service, the Human Resources Department shall certify the names of those determined by testing procedures to be the most qualified of such available applicants to the Mayor or designee.

Promotions

A promotion is assigning an employee from one position to another that is classified in a higher salary range. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for the purpose of affecting an increase in compensation.

Transfers

A transfer is assigning an employee from one position to the same position that is classified in the same salary range. When an employee desires to transfer from one department/division to another, it must be agreeable to both Department Heads/supervisors involved and/or approved by the Division Director. An employee may be transferred for any of the following reasons:

1. When the employee meets the qualification requirements for the new position and is selected by the Hiring Manager for transfer; or

2. If it is in the best interest of the City.

Temporary Reassignment

Employees may be reassigned temporarily based on business need or pending the outcome of an investigation upon approval of the Department Head. If an employee is to be temporarily assigned to another work location or responsibility due to a business need and not because of a pending investigation, then notice may be given for the reassignment when feasible and include an estimated timeframe for the temporary reassignment. If it is not feasible to provide a timeframe for the temporary reassignment, then the supervisor shall meet with the employee on a regular basis to discuss the status of the temporary reassignment.

Demotions

A demotion is assigning an employee from one position to another that is classified in a lower salary range. Demotions in every case must involve a definite decrease in duties and responsibilities and shall not be made merely for the purpose of affecting a decrease in compensation. An employee may be demoted for any of the following reasons:

1. His/her position is being eliminated and he/she would otherwise be terminated;
2. His/her position is being reclassified to a higher grade, and the employee lacks the necessary skills to successfully perform the job;
3. Lack of work;
4. Budgetary constraints;
5. The employee does not possess the necessary qualifications to render satisfactory service to the position he/she holds;
6. The employee voluntarily requests such a demotion, and it is available; or
7. As a form of disciplinary action.

Rehires

The City may rehire a former City employee provided that the former City employee meets the minimum qualifications for the position, can perform the duties of the position, has not been suspended for a total of more than five (5) days within the last five (5) years of employment, and left in good standing with the City.

A former classified service City employee may be reinstated or reemployed based on the following conditions:

1. Reinstatement. For up to a period of six (6) months from the date of separation (as dated on the last official record), a former City employee may be reinstated under the following conditions:

    a. the employee is rehired and restored into the same position that was held at the time of separation;

    b. the employee was vested in the City General Pension at the time of separation; and

    c. the employee did not withdraw their employee contributions and remain vested with the General Pension.

An employee will be provided the same fringe benefits and prerequisites of seniority that the employee was receiving when he/she left employment. Reinstated employees are not entitled to any upward adjustments with respect to any condition of employment which would have occurred by virtue of continued employment. This time limitation shall not apply to veterans who are entitled to be reinstated without loss of benefits pursuant to federal or state law, or employees reinstated as a result of legal proceedings.

2. Reemployment. There is no time limitation on reemployment of a former classified City employee. A person who is reemployed has only those rights, benefits and conditions of employment as any other newly hired City employee for that position. All rights, benefits and conditions of previous employment with the City are forfeited after employee separation, voluntary or involuntary. Therefore, all accrual periods, probationary periods, and longevity calculations shall begin on the first day of work of the current employment period, unless otherwise provided by federal or state law or in the City's Charter, Ordinance or Resolution.

Previous City employees who were and will be covered by the Fire and Police Pension Fund of the City of Chattanooga, must comply with 1) Chapter 165, Private Acts of Tennessee, 1949; 2) Charter of the City of Chattanooga, Sections 13.63-13.64; 3) City Code Chapter 16; and 4) City Code, Chapter 2, Article III, Division 18, Sections 2-400 through 2-429 to be eligible for either reinstatement or reemployment.

The City reserves the right not to reemploy or reinstate any former City employee. Nothing herein shall be construed to limit or to increase the reemployment or reinstatement rights afforded to veterans pursuant to federal or state law. Veterans shall be afforded whatever reemployment or reinstatement rights they may be legally entitled to receive.

Nothing herein shall be construed to change any time limitations or pre-existing conditions provisions provided through any health, life or accident insurance in force. Nothing herein shall be construed to provide any contractual rights or to vest any rights in any present or former employee and shall be construed only as an internal management policy subject to change or exception at any time by the Mayor.

I. PROBATIONARY PERIOD

All persons employed or promoted to permanent positions shall serve a probationary period of six (6) months, except persons employed in fire protection or law enforcement positions in the Fire and Police Departments. Employees in those positions serve a probationary period of twelve (12) months. Before the end of the probationary period, the supervisor shall indicate the following in writing to the Department Head and copy the Human Resources Director:

1. That he/she discussed with the employee the employee's accomplishments, failures, strengths and weaknesses;

2. Whether the employee is performing satisfactory work;

3. Whether the employee should be retained in the position;

4. Whether the employee, if a new employee, should be discharged or have his/her probationary period extended a given number of months not to exceed an additional six (6) months; or

5. Whether the employee, if on probation following promotion, should be reinstated in his/her former position, if available, or have his/her probationary period extended a given number of months not to exceed an additional six (6) months.

New hire probationary employees shall not be entitled to any due process hearings with respect to discharge and newly promoted employees shall not be entitled to due process hearings should the employee be reinstated in his/her former position or demoted to another position during the probationary period. The supervisor shall submit written documentation to the Department Head and to the Human Resources Department for inclusion in the employee's official personnel file.

J. PERFORMANCE APPRAISAL/EVALUATION

The performance appraisal is a systematic method of evaluating and strengthening employee performance. Supervisors shall review and discuss with employees any performance or conduct issues that need improvement. Together the supervisor and the employee shall develop goals to improve job skills and enhance job performance. Employee evaluations may be used to assist in:

1. Promotional decisions;
2. Reduction in force considerations; and
3. Disciplinary action decisions.

Probationary newly hired or promoted City employees shall receive evaluations at the mid-point and at the end of their probationary period. Once the probationary period has ended, supervisors shall evaluate their employees on an annual basis. Both the supervisor and employee shall sign the appraisal. The employee's signature does not necessarily indicate

agreement with the contents of the evaluation, only that he/she has been made aware of it. Employees may attach comments to their evaluation. Written documentation shall be maintained in the department and a copy shall be forwarded to the Human Resources Department for inclusion in the employee's official personnel file.

K. EMPLOYEE ONBOARDING

New employees shall be required to complete or provide various documents on their first day of employment to include the following:

1. A W-4 form;

2. Orientation attendance form;

3. An Employment Eligibility Verification Form (I-9) and any supporting documents;

4. A copy of educational certification, professional license, certificate, or any other required documents to include a copy of the employee's driver's license, if the position requires driving a City vehicle;

5. Beneficiary forms; and

6. A direct deposit form.

New employees are required to attend a new employee orientation. At orientation, employees will be provided with relevant information to assist them with the onboarding process.

L. OUTSIDE EMPLOYMENT

The City expects an employee's work for the City to take precedence over any outside employment engaged in by an employee. Employees must get prior written approval from the Department Head before engaging in other employment. The supervisor shall forward a copy of the outside employment form to the Human Resources Department for inclusion in the employees' official personnel file.

Activities and conduct away from the job must not compete with, conflict with, or compromise the City's interests or adversely affect job performance and the ability to fulfill all job responsibilities. Employees are prohibited from performing any services for customers on non-working time that are normally performed by the City. This prohibition also extends to the unauthorized use of any City tools or equipment and the unauthorized use or application of any confidential information. In addition, employees are not to solicit or conduct any outside business during paid working time.

M. FLEXTIME

Flextime is a scheduling arrangement that permits variations in an employee's arrival and departure times but does not change the total number of hours worked in a week. This

allows employees greater flexibility in their work schedule.

Supervisors may review flextime requests on a case-by-case basis and will obtain Department Head approval before the final approval may be granted. Non-probationary City employees may be eligible for flextime. The employee must first discuss possible flextime arrangements with his/her supervisor and then submit a written request to his/her supervisor. The supervisor will approve or deny the flextime request based on staffing needs, the employee's job duties, the employee's work record and the employee's ability to temporarily or permanently return to a standard work schedule when needed.

Individual Department Heads may implement flextime work schedules, subject to the following conditions:

1. The Department Heads have the discretion to determine if staffing coverage is adequate and sufficient to meet the operating requirements;

2. Work weeks and work periods established by Department Heads must be observed;

3. Flextime schedules must be evaluated over a three (3) month trial period. After the trial period, Department Heads are to evaluate the flextime schedule on a periodic basis (no less than annually) to determine if it meets departmental operating requirements;

4. Department Heads, at their discretion, may implement, continue, discontinue or modify flextime work schedules. In addition, Department Heads have the right to return employees to a standard work schedule at any time without providing justification for such action; and

5. Department Heads are to ensure that flexible schedules allow continuation of normal services.

Types of Flextime Schedules

The total number of hours worked each work day, work week or work period must be maintained by each department in accordance with the FLSA. Employees are to complete the *City of Chattanooga Flexible Work Option Request* form to modify their work schedule, and approval must be granted by the supervisor and the Human Resources Department prior to beginning the modified work schedule. The form requires listing the employee's current work schedule and the requested flextime schedule.

The following types of flextime schedules may be approved.

1. Fixed Schedule – employees may set their own work hours within limits established by management. Employee adheres to a set schedule but one that differs from the

normal office business hours.

2. Adjusted Meal Period – employees may adjust the length of their meal period while still working their standard hours for the work day. The minimum time to flex is thirty (30) minutes up to a maximum of one (1) hour.

3. Compressed Schedule – employees may complete a full-time work week in fewer than five days.

4. Health Flex – employees participating in the wellness program may utilize either the *Adjusted Meal Period* or *Peak Hour Flextime* schedules.

5. Peak Hour Flextime – employees may flex their daily work hours (outside of peak hours) while working the total standard hours for the day.

6. Telecommuting – certain employees who can fulfill their job responsibilities at home or another approved location may use this option. Telecommuting may be approved by the supervisor and Department Head on a temporary basis at the discretion of the Department Head.

N. ATTENDANCE

Punctual and regular attendance is necessary for the City to operate efficiently. The City provides a variety of forms of leave to cover absence from work. Employees are expected to report for duty, and be ready to begin work by the start of the regular work day or shift, unless on approved leave.

If an employee must be late for work or absent because of illness or an unforeseen circumstance, he/she shall personally notify his immediate supervisor as soon as possible by telephone. Certain departments may designate a specific call-in time, so the employee must adhere to departmental/divisional call-in protocol. Supervisors may request a doctor's excuse for any absences due to illness that exceed three (3) days or if abuse of leave is suspected.

Not reporting to work and not calling to report the absence is a no call/no show. A no call/no show lasting for three (3) consecutive workdays may be considered job abandonment and may be deemed an employee's voluntary resignation of employment.

Patterns of absenteeism or tardiness may result in disciplinary action, even if the employee has not yet exhausted available paid time off. Absences due to illnesses or injuries that qualify for a protected leave status will not be counted against an employee's attendance record, if the protected leave is verified and approved. Medical documentation is required in these instances. Employees who are absent due to a protected leave are still expected to follow the Department's call-in protocol.

O. BREAKS

The City will allow employees up to two (2) rest breaks during each workday. Non-exempt employees are permitted to take two (2) fifteen (15) minute rest breaks. Depending on the department, the schedule of rest breaks may be set by the employees' immediate supervisor with the goal of providing the least possible disruption to City operations. Non-exempt employees on rest breaks are not required to clock in and out because this time is considered "time worked" and is compensable. Exempt employees, as they are paid a salary regardless of the hours they work, may choose to take breaks as needed.

These rest breaks are a privilege and not a right and should be taken at times that do not interfere with service to the public. If an employee chooses not to take advantage of rest breaks, then this time may not be accumulated and added to lunch periods or any type of leave. A rest break may not be used to alter arrival or departure time and may only be used in conjunction with the lunch period when authorized and approved in advance by the supervisor.

The City will provide a private location for employees who utilize break time for lactation. Employees are encouraged to contact the Human Resources Department for any assistance in identifying private locations.

P. LUNCH PERIOD

Each employee shall have a minimum of a thirty (30) minute unpaid meal period (one hour maximum) if scheduled to work six (6) hours consecutively. The meal period shall not be scheduled within the first or last hour of the scheduled work day or shift, unless specifically authorized by the immediate supervisor. If an employee needs to request additional time for a lunch period, the employee is encouraged to discuss Flextime options in advance with his/her supervisor.

The lunch period shall be deducted from the number of regular hours worked for an employee's normal work day. The time and duration of the lunch period for specific employees, work sites or crews shall be determined by the Department Head.

Q. EMPLOYEE TIME RECORDS

All non-exempt employees are responsible for recording all actual hours worked using the Department's time reporting procedures. Department Heads and supervisors shall review and sign all-time records. The following rules shall apply to time reporting procedures for non-exempt employees:

1. Employees are responsible for recording their starting time, quitting time and total hours worked for each work day;

2. Employees are not permitted to sign in/clock in before their normal starting time or to sign out/clock out late after their normal quitting time without the prior approval of their supervisor;

3. Employees shall not remove a time sheet/time cards from the designated employee area or leave the premises with said time sheet/time card;

4. Employees given permission by their supervisor to leave their job assignment for any purpose besides City business during work hours must sign/clock out when leaving and sign in upon returning to work, unless otherwise directed by their supervisor in writing;

5. An employee failing to properly sign his/her time sheet/time card must have it immediately approved and initialed by a supervisor or Department Head to insure payment for hours worked; and

6. No unauthorized representative/employee shall mark on another employee's time sheet/time card. Employees that alter another employees' time sheet/time card shall be subject to disciplinary action.

Failure to properly record hours worked may result in not being paid for those hours in question on the time sheet. Continued non-compliance may result in disciplinary action.

R. INCLEMENT WEATHER

During inclement weather situations, the City will make every effort to maintain normal work hours to provide services to citizens. Partial or full-day closings of City administrative offices may be authorized by the Mayor or designee as a result of inclement weather causing hazardous road conditions and other emergency circumstances. Department Heads shall decide which of their essential functions must continue and which employees must report to or remain at work, even when administrative closings are announced. A non-exempt, non-sworn employee required to work during inclement weather shall be paid at one and one-half (1½) times the employee's regular hourly rate.

The Mayor or designee shall determine if administrative offices shall be closed to non-essential employees, as determined by the Department Head due to inclement weather. For non-essential employees not required to report to work due to administrative closings, full-time employees will be paid for such time off. Part-time employees will only be paid if normally scheduled to work that day and only for those hours which the employee would normally work.

During an inclement weather situation that is not severe enough to warrant a closure of administrative offices, the Mayor or designee may determine a delayed opening for non-essential employees. In this situation, all employees will be expected to make reasonable efforts to get to work and employees unable to arrive for work on such day will be charged one (1) day of Paid Time Off (PTO). If no PTO is available, the non-exempt employee will not be paid for the day. In a delayed opening situation, it is reasonable to allow employees up to two (2) hours after his/her normal reporting time before charging PTO. Should an employee report later than two (2) hours after the scheduled start time, PTO is charged for the entire time the employee was off. All employees who are unable to report to work should call their supervisor and report their absence as soon as possible.

On days when weather conditions worsen as the day progresses, the City may decide to close early. In such cases, a decision and an announcement will be made by the Mayor or designee or the Department Head, and employees will be paid for the remaining time. Employees will be expected to remain at work until the appointed closing time unless they receive permission from their Department Head to leave earlier, in which case PTO may be used for the difference in the early departure time and the early closure time as determined by the appropriate leadership.

S. NEPOTISM/PERSONAL RELATIONSHIPS

No applicant shall be employed in a position where a member of his/her immediate family would serve in a supervisory position which could directly affect his/her job performance or job evaluation. If employees become related by marriage and create a situation prohibited by this Section, one of the employees may be asked to give up his/her position.

If a personal, romantic, or intimate relationship is established between two or more employees post-hire, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to the Department Head. When a conflict or potential conflict arises due to the relationship affecting employment, the City reserves the right to make any and all employment decisions in the best interest of the City, which may include requiring one of the employees to give up his/her position.

Situations not specifically addressed in this policy that, in the City's opinion, create a conflict of interest or give the appearance of a conflict of interest, will be handled at the City's discretion.

SECTION V – LEAVE POLICIES

The City's benefits and leave policies have been designed with the health and well-being of its employees in mind. While leave privileges add to the benefit and compensation package of employees, they also add intangible quality of life benefits which help attract and retain a desirable workforce.

A. PERSONAL LEAVE – PAID TIME OFF

The Personal Leave or Paid Time Off (PTO) Program is provided to eligible full-time employees and combines vacation, sick, holiday, and bereavement leave into one leave bank. This provides employees flexibility in scheduling time off to meet family needs and balance work and personal life. The design of the PTO program is also intended to assist employees and managing staffing needs in order to meet the operational needs of the City.

1. Employees will earn PTO within the accrual period of employment if they receive pay for a minimum of one-half of the pay period.

2. PTO taken for a FMLA qualifying event will run concurrently with FMLA Leave.

3. Employees are required to notify their immediate supervisor of PTO taken for a FMLA qualifying event.

4. Employees do not accrue PTO while receiving payments under the Injury on Duty Program or while on an unpaid leave of absence.
5. PTO cannot be taken before it is earned.

6. PTO shall not be taken in excess of twenty-five (25) consecutive work days without prior approval of the employee's immediate supervisor and Department Head.

7. PTO will be charged in multiples of fifteen (15) minute increments against the employee's leave record.

8. All employees should provide a twenty-four (24) hour notice to their immediate supervisor of their request to take PTO, when possible.

Accrual Schedule

PTO is earned based on years of service. The first tier accrual will begin with the first accrual period upon employment. The second tier accrual begins on the first accrual period of the eleventh (11th) year of continuous service and with each year of continuous service afterwards. The third tier accrual begins on the first accrual period of the eighteenth (18) year of continuous service and with each year of continuous service after that.

PTO Accrual Schedule for Eligible Full-Time Employees

All full-time regular employees, regardless of weekly or bi-weekly pay status, will earn PTO on a bi-weekly accrual period, as shown in the schedule below:

YEARS OF SERVICE	Tier 1 **0-10**	Tier 2 **11-17**	Tier 3 **18+**
Hours accrued bi weekly	11.08	12.31	13.54
Hours accrued annually	288	320	352
Days accrued annually	36	40	44

PTO Accrual Schedule for Sworn Police and Day Shift Fire Personnel

Sworn Police personnel and sworn Fire personnel who are not regularly scheduled to work on twenty-four (24) hour shifts will earn PTO on a bi-weekly accrual period, as shown in the schedule below:

Sworn Police Personnel / Sworn Fire Day-Shift Personnel			
YEARS OF SERVICE	Tier 1 **0-10**	Tier 2 **11-17**	Tier 3 **18+**
Hours accrued bi weekly	11.08	12.62	13.85
Hours accrued annually	288	328	360
Days accrued annually	36	41	45

PTO Accrual Schedule for Sworn Fire 24 Hour Shift Personnel

Sworn Fire personnel who are regularly scheduled to work twenty-four (24) hour shifts will earn PTO on a bi-weekly basis, as shown in the accrual schedule below:

Sworn Fire 24 Hour Shift Personnel			
YEARS OF SERVICE	Tier 1 **0-10**	Tier 2 **11-17**	Tier 3 **18+**
Hours accrued bi weekly	17.08	19.85	22.15
Hours accrued annually	444	516	576
Days accrued annually	37	43	48

This calculation of PTO is based upon an equalized pay system of one-hundred and twenty (120) hours per bi-weekly pay period. These employees are required to take twelve (12) hours of mandatory PTO every twenty-seven (27) day work period.

The PTO accrual and balance will be converted for Sworn Fire personnel who transfer from or to a twenty-four (24) hour schedule and from or to Day shift.

Accrual schedules for employees in the Head Start Division of YFD are not included in this Section, but can be found in the Head Start Standard Operating Procedures.

1. Carryover of PTO Days:

   The PTO year ends with the first accrual period in March, which includes the last calendar day in February. The next PTO year will begin the day after the year ends.

   Employees may carry over accrued PTO from one leave year to the next leave year, but

may not carry over more than ten (10) days of PTO in addition to his/her accumulated PTO days carried over from the previous leave year. PTO carryover is subject to the following provisions:

1. Employees hired after March 27, 1990, may not accumulate more than one hundred (100) days of PTO. Employees hired prior to March 27, 1990 may not accumulate more than one hundred and fifty (150) days of PTO; and

2. Any PTO not used by an employee will be deducted from the employee's accumulated PTO at the end of the respective leave year.

2. PTO Payout:

When an employee separates from employment, the City will provide a cash payout up to, but not in excess, of his/her maximum carryover limit of PTO at the time of separation. PTO payouts will not be counted as part of the employee's credited service for pension purposes under the General Pension Plan and are not subject to deductions made for the General Pension Plan or Fire and Police Pension Fund.

B. HOLIDAYS

The City recognizes the following holidays:

Paid Holiday Schedule	
New Year's Day	January 1
Martin Luther King Day	Third Monday in January
Good Friday	Friday preceding Easter Sunday
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Friday after Thanksgiving
Christmas Day	December 25

When any of these days falls on a Saturday, the preceding day (Friday) will be observed as a holiday. When any of these days falls on a Sunday, the next day (Monday) will be observed as a holiday.

A non-exempt, non-sworn employee scheduled or required to work on a holiday shall be paid at one and one-half (1½) times the employee's regular hourly rate. Employees who are not scheduled or required to work will use PTO. When a non-exempt, non-sworn employee is required to work additional hours and/or days beyond or in addition to his/her regular work schedule during a holiday week, the employee shall be paid at one and one-half (1½) times the employee's regular hourly rate to compensate for the additional time required. Sworn personnel in the Fire Department who are normally scheduled to work a twenty-four hour (24) shift, will not take the recognized holidays and will be required to take holidays as designated by the Fire Chief, including the requirement that any firefighter working a twenty- four (24) hour shift must take twelve (12) hours of personal leave in each twenty

seven (27) day scheduling period.

C. BUY-BACK OF PTO

The City may purchase an employee's accrued PTO, but is subject to certain circumstances and conditions which must be agreed to by the employee seeking to sell the PTO. The employee will agree in writing that the cap on the amount of days that the employee is entitled to accumulate over his/her career will be reduced on a day for day basis for the number of days the City is purchasing. The buy-back of PTO is subject to the availability of funds at the time of the request and is determined by the Finance Department.
No more than sixty (60) days of PTO may be purchased from any employee during his/her employment with the City and each day sold will be paid at seventy percent (70%) of the employee's daily salary. The City will not purchase PTO which would lower the employee's total accumulated balance below thirty (30) days, unless authorized in writing by the Mayor. In addition, funds realized from the sale of PTO will be excluded from pension eligible earnings and will be treated as earned income.

D. LEAVE DONATION PROGRAM

The intent of this program is to provide assistance to employees who have exhausted their accrued PTO as a result of illness, caring for an ill or injured family member or to address a catastrophic casualty loss. The program allows eligible employees to donate accrued PTO to assist eligible co-workers who would otherwise be subjected to a loss of income during a continuing absence from work. Participation in the Program is entirely voluntary and is open to all employees, who are eligible to accrue PTO, within the City.

The Program is subject to change without notice, non-grievable and is not subject to any arbitration policy applicable to any employee. Donations must be made in full day increments and are irrevocable. The donated leave can only be credited for future use and not on a retroactive basis. Pay received as donated leave will be treated as earned income and is not subject to pension contributions.

Eligibility Criteria

In order to donate accrued PTO, an employee must have a minimum balance of two-hundred and forty (240) hours after making the donation (or three-hundred and sixty (360) hours for sworn Fire personnel). Employees may not donate more than one-hundred and sixty (160) hours of leave in a given leave year.

In order to receive donated PTO, an employee must be in a formal leave status. The employee must be absent due to a non-occupational personal injury, illness, or caring for an injured or ill family member for which medical documentation may be required. This
does not apply to employees who are receiving IOD wage compensation or those who have refused light duty assignments.

All accrued PTO and earned compensatory leave must have been exhausted before a request

for donated leave can be made.. Employees must be on continuous leave to be eligible to receive donated leave. An eligible recipient may receive up to six (6) months of leave donation in a three (3) year period. Pay received from donated leave will be treated as earned income, but will not apply to pension eligible earnings.

Effect on Family Medical Leave (FMLA) and Tennessee Maternity Leave (TMLA)

Request to receive donated PTO does not affect a recipient employee's right to Family and Medical Leave (FMLA) and/or leave under the Tennessee Maternity Leave Act (TMLA). Payment received through this program will be charged as FMLA or TMLA leave as long as the recipient employee meets the eligibility requirements.

Procedures

Donations

An eligible employee may apply to donate PTO by completing the Request to Donate Leave Form and submitting it to his/her Department Head. The Department Head or designee may review and approve the donation and will forward the form to Human Resources for processing. The Director of Human Resources or designee will review the request for approval. Upon final approval, the donor's accrued PTO balance will be reduced by the amount donated.

Recipients

An eligible employee who wishes to receive PTO donation from another employee may complete the Request to Receive Donated Leave Form and submit it to the Department Head or designee for review. The approval form is routed to Human Resources for final approval and processing.

The recipient must request a leave of absence for a specific period of time and may not be open- ended. The Department Head or designee must verify that the employee has exhausted all PTO before authorizing the request. Upon Human Resources' approval, the leave donation pay will be credited to the recipient for processing in the next payroll period. The donated leave will be credited to the recipient in the dollar value equivalent based on the donor's rate of pay.

E. FAMILY AND MEDICAL LEAVE

General

The City of Chattanooga recognizes that there are times when an employee may need to be absent from work due to qualifying events under the Family and Medical Leave Act (FMLA).

Accordingly, the City will provide Eligible Employees up to a combined total of twelve (12) weeks of unpaid FMLA leave per Leave Year for the following reasons:

- **Parental Leave:** For the birth or placement of an adopted or foster child;

- **Personal Medical Leave:** When an employee is unable to work due to his/her own Serious Health Condition;

- **Family Care Leave:** To care for a spouse, child, or parent with a Serious Health Condition;

- **Military Exigency Leave:** When an employee's spouse, parent, son or daughter (of any age) experiences a Qualifying Exigency resulting from military service (applies to active service members deployed to a foreign country, National Guard and Reservists); and,

- **Military Care Leave:** To care for a an employee's spouse, parent, son, daughter (of any age) or next of kin who requires care due to an Injury or Illness incurred while on active duty or was exacerbated while on active duty. **NOTE:** A leave of up to twenty-six (26) weeks of leave per twelve (12)month period may be taken to care for the injured/ill service member.

Key Policy Definitions

- "Eligible Employees" under this policy are those who have been employed by the City for at least twelve months (need not be consecutive months and under certain circumstances hours missed from work due to military call-up will also be counted) and have performed at least one-thousand two hundred and fifty (1,250) hours of service in the twelve (12) month period immediately preceding the date leave is to begin.

- "Leave Year" for the purposes of this policy will be the twelve (12) month period measured forward from the date any employee's first FMLA leave begins.

- A "Spouse" means a husband or wife as recognized under federal law.

- A "Son or Daughter" for the purposes of Parental or Family Leave is defined as a biological, adopted, foster child, step-child, legal ward or a child for whom the employee stood in *loco parentis* to, who is (1) under eighteen (18) years of age or, (2) eighteen (18) years of age or older and unable to care for him/herself because of physical or mental disability. A "Son or Daughter" for the purposes of Military Exigency or Military Care leave can be of any age.

- A "Parent" means a biological, adoptive, step or foster parent or any other individual who stood in *loco parentis* to the employee when the employee was a son or daughter.

- "Next of Kin" for the purposes of Military Care leave is a blood relative other than a

spouse, parent or child in the following order: brothers and sisters, grandparents, aunts and uncles, and first cousins. If a military service member designates in writing another blood relative as his/her caregiver, that individual shall be the only next of kin. In appropriate circumstances, employees may be required to provide documentation of next of kin status.

- A "Serious Health Condition" is an illness, injury, impairment or physical or mental condition that involves either inpatient care or continuing treatment by a Health Care Provider. Ordinarily, unless complications arise, cosmetic treatments and minor conditions such as the cold, flu, ear aches, upset stomach, minor ulcers, headaches (other than migraines), routine dental problems are examples of conditions that are not serious health conditions under this policy. If you have any questions about the types of conditions which may qualify, contact the City's FMLA third-party Administrator (TPA) or the Human Resources Department.

- A "Health Care Provider" is a medical doctor or doctor of osteopathy, physician's assistant, podiatrists, dentists, clinical psychologist, optometrists, nurse practitioner, nurse-midwife, clinical social worker or Christian Science practitioner licensed by the First Church of Christ. Under limited circumstances, a chiropractor or other provider recognized by our group health plan for the purposes of certifying a claim for benefits may also be considered a HCP.

- "Qualifying Exigencies" for Military Exigency leave include:
  - Short-notice call-ups/deployments of seven days or less (**NOTE**: leave for this exigency is available for up to seven days beginning the date of call-up notice);
  - Attending official ceremonies, programs or military events;
  - Special childcare needs created by a military call-up including making alternative child-care arrangements, handling urgent and non-routine childcare situations, arranging for school transfers or attending school or daycare meetings;
  - Making financial and legal arrangements;
  - Attending counseling sessions for the military service member, the employee, or the military service members son or daughter who is under eighteen (18) years of age or eighteen (18) or older but is incapable of self-care because a mental or physical disability
  - Rest and Recuperation (**NOTE**: fifteen (15) days of leave is available for this exigency per R&R event);
    - Post-deployment activities such as arrival ceremonies, reintegration briefings and other official ceremonies sponsored by the military (Note: leave for these events is available during a period of ninety (90)days following the termination of active duty status). This type of leave may also be taken to address circumstances arising from the death of a covered military member while on active duty;
    - Parental care when the military family member is needed to care for a parent who is incapable of self-care (e.g. arranging for alternative care or transfer to a

care facility); and,
  - Other exigencies that arise that are agreed to by both the City and employee.

- A "Serious Injury/Illness" incurred by a service member in the line of active duty or that is exacerbated by active duty is any injury or illness that renders the service member unfit to perform the duties of his/her office, grade, rank or rating.

Notice and Leave Request Process

Foreseeable Need for Leave: If the need for leave is foreseeable because of an expected birth/adoption or planned medical treatment, employees must give at least thirty (30) day notice. If a thirty (30)-day notice is not practicable, notice must be given as soon as possible. Employees are expected to complete and return a leave request form prior to the beginning of leave. Failure to provide appropriate notice and/or complete and return the necessary paperwork will result in the delay or denial of leave.

Unforeseeable Need for Leave: If the need for leave is unforeseeable, notice must be provided as soon as practicable and possible under the facts of the particular case. Normal call-in procedures apply to all absences from work including those for which leave under this policy may be requested. Employees are expected to complete and return the necessary leave request form as soon as possible to obtain the leave. Failure to provide appropriate notice and/or complete and return the necessary paperwork on a timely basis will result in the delay or denial of leave.

Leave Request Process: Any employee requesting leave under FMLA should notify the immediate supervisor and contact the City's FMLA TPA. The FMLA TPA will provide information and the necessary documents to the employee to begin the process.

Call-in Procedures: In all instances where an employee will be absent, the call-in procedures and standards established for giving notice of absence from work must be followed.

Leave Increments

Parental Leave: Leave for the birth or placement of a child must be taken in a single block and cannot be taken on an intermittent or reduced schedule basis. Parental Leave must be completed within twelve (12) months of the birth or placement of the child; however, employees may use Parental Leave before the placement of an adopted or foster child to consult with attorneys, appear in court, attend counseling sessions, etc.

Family Care, Personal Medical Leave, Military Exigency and Military Care Leave: Leave taken for these reason may be taken in a block or blocks of time. In addition, if a Health Care

Provider deems it necessary or if the nature of a Qualifying Exigency requires, leave for these reasons can be taken on an intermittent or reduced schedule basis.

Paid Leave Utilization During FMLA Leave

Family and Medical Leave Act provides job protection for unpaid leave; however, any available PTO will be used during FMLA Leave. Any PTO used for this reason will count against FMLA leave entitlement. PTO will run concurrent with FMLA leave entitlement, provided any applicable requirements of the leave policy are satisfied.

Certification and Fitness for Duty Requirements

Employees requesting Family Care, Personal Medical or Military Care leave must provide certification from a health care provider to qualify for leave. Such certification must be provided within fifteen (15) days of the request for leave unless it is not practicable under the circumstances despite the employee's diligent efforts. Failure to timely provide certification may result in leave being delayed, denied or revoked. In the City's discretion, employees may also be required to obtain a second and third certification from another health care provider at the City's expense (except for Military Care leave). Re-certification of the continuance of a serious health condition or an injury/illness of a military service member will also be required at appropriate intervals.

Employees requesting a Military Exigency leave may also be required to provide appropriate active duty orders and subsequent information concerning particular Qualifying Exigencies involved.

Employees requesting Personal Medical leave will also be required to provide a fitness for duty certification from their Health Care Provider prior to returning to work.

Scheduling Leave and Temporary Transfers

Where possible, employees should attempt to schedule leave so as not to unduly disrupt operations. Employees requesting leave on an intermittent or reduced schedule basis that is foreseeable based on planned medical treatment may be temporarily transferred to another job with equivalent pay and benefits that better accommodates recurring periods of leave.

Health Insurance

The City will maintain an employee's health insurance coverage during leave on the same basis as if he/she were still working. Employees must continue to make timely payments of their share of the premiums for such coverage. Failure to pay premiums within thirty (30) days of when they are due may result in a lapse of coverage. If an employee does not return to work at the end of leave, the City may require the employee to reimburse the City for the health insurance premiums paid during the leave.

Return to Work

Employees returning to work at the end of leave will be placed in their original job or an equivalent job with equivalent pay and benefits. Employees will not lose any benefits that accrued before leave was taken. Employees may not, however, be entitled to discretionary raises, promotions, bonus payments or other benefits that become available during the period of leave.

FMLA Leave Conditions When Both Spouses are City Employees

In the case where an employee and his/her spouse are both employed by the City, the total number of weeks to which both are entitled in the aggregate because of the birth or placement of a child or to care for a parent with a serious health condition will be limited to twelve (12) weeks per Leave Year. Similarly, a husband and wife employed by the City will be limited to a combined total of 26-weeks of leave to care for a military service member. This twenty-six (26)week leave period will be reduced, however by the amount of leave taken for other qualifying FMLA events. This type of leave aggregation does not apply to leave needed because of an employee's own serious health condition, to care for a spouse or child with a serious health condition or because of a qualifying exigency.

General Provisions

Failure to Return: Employees failing to return to work or failing to make a request for an extension of their leave prior to the expiration of the leave will be deemed to have voluntarily terminated their employment.

Alternative Employment: No employee, while on leave of absence, shall work or be gainfully employed either for himself/herself or others unless express, written permission to perform such outside work has been granted by the City. Any employee on a leave of absence who is found to be working elsewhere without permission will be automatically terminated.

False Reason for Leave: Termination will occur if an employee gives a false reason for a leave.

F. TENNESSEE MATERNITY LEAVE ACT (TMLA)

Any employee who has been employed in City service for at least twelve (12) consecutive months as a full-time employee may be absent from employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth, and nursing the infant. The four (4) month period will include leave required before and after the birth of a child. With regard to adoption, the four (4) month period will begin at the time an employee receives custody of the child.

An employee requesting parental leave should give at least three (3) months' advance notice by

contacting the City's third party administrator of the anticipated date of departure for parental leave, the length of parental leave, and the intention to return to full-time employment after parental leave. The employee shall be restored to his or her previous or a similar position with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of his/her leave.

TMLA will run concurrently with FMLA. Any PTO used for this reason will count against FMLA/TMLA leave entitlement. Further, parental leave will not affect the employee's right to accrue personal leave and receive advancement, seniority, lengthy of service credit, benefits, plans or programs s for which he/she was eligible at the date of his/her leave and any other benefits or rights of employment incident to his/her employment position. Employees must continue to make timely payments of their potion of the premiums for such coverage.

G. MILITARY LEAVE

Any employee of the city called to enter the military services of the United States (including the Army, Army Reserves, Army National Guard, Navy, Naval Reserve, Marine Corps, Marine Corps Reserve, Air Force, Air Force Reserve, Air National Guard, Coast Guard, Coast Guard Reserve, Commissioned Corps of the Public Health) shall be given a leave of absence for the duration of such military service, and upon the termination of such service, the Mayor or Department Head in the department in which such employee was employed shall reinstate the employee in the position he/she held at the time he/she entered such military service, if such position exists. Further, the employee can also continue his/her existing health coverage for the employee and his/her dependents for up to twenty-four (24) months while the employee is fulfilling military service obligations.

The process for reinstatement of employees returning from military leave begins when the employee notifies the department head or designee of his/her intent to return to work. The following guidelines apply:

1. On the first work day back for employees deployed thirty (30) days or less;

2. Within fourteen (14) days of the end of service for employees deployed up to one-hundred and eighty (180) days; and

3. Within ninety (90) days of the end of service for employees deployed one-hundred and eighty one (181) days or longer.

The returning employee will be reinstated in the position they would have attained had they not been absent for military service, with the same seniority, status and pay.

If the position has been abolished, the employee shall be given a position of equal pay grade and at a salary of not less than that which he/she received before such military service or would have held had he/she not entered such military service. Such employee shall retain all rights and benefits which he/she had under any civil service or tenure law of the city, and shall retain all rights and benefits he/she had under insurance and pension law of the city at the time he/she entered such service for the United States Government, and shall be given

credit for the years spent in the military service in computing the time served for pension purposes.

Unless his/her military organization requires a specified time for the training period, the employee shall arrange with his/her Department Head for a mutually suitable time period. Employees shall be granted twenty (20) days of paid leave for each calendar year for active-duty training.

Every employee returning from military leave shall submit to his/her Department Head proof of the number of days spent on duty.

H. ADMINISTRATIVE LEAVE

Administrative leave is the temporary removal of an employee with pay from their normal job duties at the discretion of their Department Head. In no event will the use of administrative leave exceed a maximum of thirty (30) calendar days unless authorized by the Mayor.

The City recognizes the following types of administrative leave:

1. Employees working in fire protection or law enforcement activities may be temporarily removed from duty at the discretion of the respective Chiefs for a serious, documented, work-related incident, such as an incident involving a shooting or some other post-traumatic event.

2. Any Department Head may place any employee on administrative leave for up to a maximum of five (5) business days for the sole purpose of collecting information to determine the facts to support a disciplinary action against an employee. Administrative leave is necessitated by allegations of misconduct against an employee, pending mandatory alcohol and drug screen results or any other action that shall result in the best business practice of removing an employee from the work site.

3. Employees may be temporarily removed with pay from their normal job duties at the discretion of the Department Head after sustaining a serious, documented, work-related injury.

4. From time to time, the Mayor, at his/her discretion, may close certain offices, dismiss non-essential personnel and authorize the use of administrative leave.

I. LEAVE WITHOUT PAY

Employees who are not eligible for leave under FMLA and need time off for personal or health reasons, he/she may apply for Leave Without Pay. Accrued PTO balance and earned compensatory leave will be used prior to leave without pay, with the exception of leave under FMLA.

Employees applying for Leave Without Pay should present the request in writing to their Department Head for review. A minimum of two (2) weeks advance notice is required prior to requested absence, when feasible. The request for leave will be for a definite stipulated period time and cannot be open ended.

In the event an employee is unable to provide two (2) weeks advance notice, the employee must notify the immediate supervisor or the Department Head within twenty-four (24) hours of submitting the request for Leave Without Pay. After business hours, employees must notify their supervisor by leaving a voice message.

The employee's Department Head or designee will review the request for Leave Without Pay for approval. The decision is at his/her discretion, unless the leave qualifies under a Federal or State law. Consideration for approving the request will be based on a) the employee's length of service, b) employment record including performance evaluation/reviews, and c) the reason for the absence.

Approval will be in thirty (30) day increments with the employee required to present a written request for each period unless illness or other causes outside of the control of the employee prevents such action.

The total period of Leave Without Pay from City employment cannot exceed twenty-six (26) weeks in a consecutive twelve (12) months period, unless qualified for additional leave under State or Federal law.

Employees will not be eligible for accrual of PTO while on an approved Leave Without Pay. At the conclusion of any leave of absence, employees reporting for duty must notify the Department Head or designee of the anticipated date of return to work prior to returning. Employees returning to work from a leave of absence due to personal medical reasons may require a Fit for Duty evaluation. Please refer to the Return to Work/Fit for Duty Policy.

If the employee fails to return to work at the conclusion of a leave of absence, the employee will be subject to disciplinary action.

For the duration of the leave, the City will maintain an employee's health coverage under the Group Insurance Plan under the same conditions coverage would have been provided if the employee continuously worked during the leave period. The employee must maintain benefits coverage for the duration of the leave by making their premium payments directly to the City.

J. COURT LEAVE

An employee who is summoned or subpoenaed to appear as a party, witness, or juror will be granted court leave with pay after submitting the summons or subpoena to his/her immediate supervisor.

When a City employee is requested by the Office of the City Attorney to appear in court on

behalf of the City, he/she must appear or be subject to disciplinary procedures. The employee will have the same benefits as though he/she were summoned or subpoenaed. The employee cannot be disciplined for his/her testimony to the extent that their testimony is true and/or reasonably believed to be true.

Employees, who appear in court in the normal course and scope of their duties, cannot be considered to be on leave for such appearances if they appear at the request of the Office of the City Attorney or if he/she is appearing as required as part of his/her job duties.

When an employee has been granted leave for court attendance and is excused by proper court authority, he/she must report back to his/her place of duty.

Leave with pay for court attendance will not be granted when the employee is the plaintiff or defendant in personal litigation. When the litigation is the result of an act performed by the employee as a part of his/her official duties, then leave with pay will be granted.

A summons to report for jury duty must be presented on the next work day to the employee's immediate supervisor, and the employee will then be excused from employment for the day(s) required of the employee while serving as a juror in any court of the federal, state, or local courts if the requested jury duty exceeds three (3) hours during the day for which the excuse is sought.

If an employee summoned for jury duty is working a night shift or is working during hours preceding those in which court is normally held, the employee shall also be excused from employment as provided by this Section for the shift immediately preceding the employee's first day of service on any lawsuit. After the first day of service, when the employee's responsibility for jury duty exceeds three (3) hours during a day, then the employee will be excused from the next scheduled work period occurring within twenty-four (24) hours of the day of jury service. Any question concerning the application of the provisions of this subsection to a particular work shift or shifts will be conclusively resolved by the trial judge of the court to which the employee has been summoned.

In any event for the excused absence, the employee will be entitled to the usual compensation received from employment. Employees subpoenaed for jury duty will keep any compensation for serving as a juror.

Employees who are paid on a mileage basis will be paid the mileage pay they would have received had they reported for work rather than for jury service on each day covered by the provisions of this Section.

This Section should not apply to temporary employees.

K. VOTING LEAVE

City employees will be given time off to vote in national, state, and local elections under the

following provisions:

1. Employees who are registered voters may receive reasonable time off to vote if they request such time off before 12 noon the day before the election. The supervisor may specify the hours during which the employee may be absent to vote, and the time off may not exceed three (3) hours.

2. No time off will be granted if the polls in the county where the employee is a resident are open three (3) or more hours before the employee is scheduled to begin work or if the polls close three (3) or more hours after the employee's work schedule ends.

3. In accordance with Public Chapter 741, which amended TCA Section 2-9-103 effective April 15, 1998, any full-time employee appointed by a county election commission to work part-time as a voting machine technician, shall be granted unpaid leave for the day(s) required for the technician's duties. Supporting documentation may be required by the appropriate approving authority for the period of duty. An employer may not require the employee to use accrued annual leave and/or compensatory time for the period. However, either may be used at the employee's option.

L. LEAVE RECORDS

Records of leave balance will be maintained by HR Department Records Division and the records of leave requests will be maintained by each respective department payroll clerk. Leave requests must be submitted on approved forms. Employees may be subject to disciplinary actions for leave requests not documented.

SECTION VI – SAFETY

A. SAFETY AND HEALTH

The purpose of the City's Occupational Safety and Health Program Plan (Program Plan) is to provide a safe and healthful place and condition of employment for all City employees. This Section describes the Program Plan components and procedures for the administration of the Program Plan for all City employees.

Definitions

For the purposes of this Program Plan, the following definitions apply.

Commissioner of Labor and Workforce Development: the Chief Executive Officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.

Director of Risk Management or Designee: the person, Safety Director, designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so

as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of City of Chattanooga.

Inspector(s): the individual(s) appointed or designated by the Safety Director to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Safety Director.

Appointing Authority: is any official or group of officials of the employer having legally designated powers of appointment, employment, or removal there from for a specific department, board, commission, division, or other agency of this employer.

City Employee: is any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as volunteers provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.

Person: is one or more individuals, partnerships, associations, corporations, business trusts, or legal representatives of any organized group of persons.

Standard*:* an Occupational Safety and Health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.

Imminent Danger: any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.

Establishment or Worksite: a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.

Serious Injury or Harm: that type of harm that would cause permanent or prolonged impairment of the body in that: (1) a part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); (2) loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced); or (3) A part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath). Simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute Serious Injury of Harm.

The ACT or TOSH Act: Tennessee Occupational Safety and Health Act of 1972.

Governing Body : the County Quarterly Court, Board of Aldermen, Board of Commissioners, City or Town Council, Board of Governors, etc., whichever may be applicable to the local government, government agency, or utility to which this Program Plan applies.

Chief Executive Officer: the chief administrative official or designee, County Judge, County Chairman, County Mayor, Mayor, City Manager, General Manager, etc., as may be applicable.

The City has the following rights and responsibilities through the administration of the Program Plan.

1. The City shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

2. The City shall comply with Occupational Safety and Health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Each department may implement additional safety guidelines as needed, provided that they meet the requirements of this Employee Information Guide and the Tennessee Occupational Safety and Health Act of 1972.

3. The City shall refrain from and unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. The City shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.

4. The City is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.

5. The City is entitled to request an order granting a variance from an occupational safety and health standard.

6. The City is entitled to protection of its legally privileged communication.

7. The City shall inspect all worksites to insure the provisions of this Program Plan are complied with and carried out.

8. The City shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.

9. The City shall notify all employees of their rights and duties under this Program Plan to include a suitable safety and health training program.

The Program Plan requires the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees and has the following components.

The Program Plan keeps, preserves, and makes available to the Commissioner of Labor and Workforce Development, his/her designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Safety Director, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.

The Program Plan provides reasonable opportunity for and encourages the participation of employees in the effectuation of the objectives of this Program Plan, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health

The Director of Risk Management is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.
The Director of Risk Management may designate the Manager of Safety or other persons as he/she deems necessary to carry out his powers, duties, and responsibilities under this Program Plan. This delegation includes the power to make inspections, provided procedures employed are as effective as those employed by the Director of Risk Management.

The Director of Risk Management's responsibilities to administer the Program Plan include the following.

1. The Director of Risk Management shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan. The Director of Risk Management may request qualified technical personnel from any department or section of government to assist him/her in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.

2. The Director of Risk Management shall prepare the report to the Commissioner of Labor and Workforce Development required by this Program Plan.

3. The Director of Risk Management shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He/she shall make recommendations to correct any hazards or exposures observed. He/she shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.

4. The Director of Risk Management shall assist any officials of the City in the investigation of occupational accidents or illnesses.

5. The Director of Risk Management shall maintain or cause to be maintained records required under this Program Plan.

6. The Director of Risk Management shall report all work-related fatalities within eight (8) hours and all work-related inpatient hospitalizations, all amputations and losses of eye within twenty-four (24) hours to the Commissioner of Labor and Workforce Development.

7. The Director of Risk Management assists the Commissioner of Labor and Workforce Development or his/her monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.

8. The Director of Risk Management consults with the Commissioner of Labor and Workforce Development or his/her designated representative with regard to the: (1) adequacy of the form and content of such records; and (2) safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.

9. The Director of Risk Management makes a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the Program Plan.

The Department Heads or designees are responsible to adhere to the directions of the Director of Risk Management on all issues involving the occupational safety and health of employees as set forth in this Program Plan, focusing on the following three (3) respective areas of implementation of the Program Plan.

1. The Department Head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Director of Risk Management within the abatement period.

2. The Department Head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.

3. The Department Head or designee shall investigate all occupational accidents, injuries, or illnesses reported to him. He/she shall report such accidents, injuries, or illnesses to the Director of Risk Management along with his findings and/or recommendations in accordance with this Program Plan.

Rights and duties of City employees shall include, but are not limited to, the following provisions.

1. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee

Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.

2. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order granting the City a variance from any provision of the TOSH Act or any standard or regulation promulgated under the Act.

3. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the City for a variance from a standard or regulation promulgated under the Act.

4. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.

5. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the City with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.

6. Subject to regulations issued pursuant to the Program Plan, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Director of Risk Management or Inspector at the time of the physical inspection of the worksite.

7. Any employee may bring to the attention of the Director of Risk Management any violation or suspected violations of the standards or any other health or safety hazards.

8. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this Program Plan.

9. Any employee who believes that he/she has been discriminated against or discharged in violation of this Program Plan may file a complaint alleging such discrimination with the Director of Risk Management. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

10. Nothing in this or any other provisions of this Program Plan shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety or others or when a medical

examination may be reasonably required for performance of a specific job.

11. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor, Safety Specialist, or the Director of Risk Management or designee. Each department is allowed to develop its own process for reporting injuries. However, in no event will the reporting process exceed twenty-four (24) hours.

Education and Training

Department Heads or designee shall ensure that all applicable education and training will be provided to City employees on the following components.

1. The recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employees work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.

2. Requirements for City employees who are required to handle or use poisons, acids, caustics, toxicants, flammable liquids, or gases including explosives, and other harmful substances in the proper handling procedures and use of such items and make them aware of the personal protective measures, person hygiene, etc., which may be required.

3. Training for employees who may be exposed to environments where harmful plants or animals are present, of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.

4. Training for all employees of the common deadly hazards and how to avoid them, such as Falls; Equipment Turnover; Electrocution; Struck by/Caught In; Trench Cave In; Heat Stress and Drowning.

City employees will also receive training on hazards and dangers of confined or enclosed spaces. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

Arrangements will be made for the Director of Risk Management and/or Safety Manager or other designees to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.

Access will be made to reference materials such as 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; The Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, and other equipment/supplies, deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.

General Inspection Procedures

In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

The Director of Risk Management or designee is authorized to enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the City; and to inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any supervisor, operator, agent, or employee working therein.

The Director of Risk Management need not personally make an inspection of each and every worksite once every thirty (30) days. He/she may delegate the responsibility for such inspections to supervisors or other personnel provided that (1) inspections are conducted by supervisors or other personnel are at least as effective as those made by the Director of Risk Management; and (2) records are made of the inspections, any discrepancies found and corrective actions taken. This information is forwarded to the Director of Risk Management.

The Director of Risk Management shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Those inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create misleading impression of conditions in an establishment. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.

An administrative representative of the City and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Director of Risk Management or designee during the physical inspection of any worksite for the purpose of aiding such inspection. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.

If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Director of Risk Management or designee during a routine inspection, he/she shall immediately inspect the imminent danger situation in accordance with plan before inspecting the remaining portions of the establishment, facility, or worksite.

Imminent Danger Procedures

Any discovery, any allegation, or any report of imminent danger shall be handled as follows.

1. The Director of Risk Management or designee shall immediately be informed of the alleged imminent danger situation and he/she shall immediately ascertain whether there is a reasonable basis for the allegation.

2. If the alleged imminent danger situation is determined to have merit by the Director of Risk Management or designee, he/she shall make or cause to be made an immediate inspection of the alleged imminent danger location.

3. As soon as it is concluded from such inspection that conditions or practices exist which constitutes an imminent danger, the Director of Risk Management or designee shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.

4. The Department Head or designee of the workplace in which the imminent danger exists shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Director of Risk Management or Safety Manager and to the mutual satisfaction of all parties involved.

The imminent danger shall be deemed abated if: (1) the imminence of the danger has been eliminated by removal of employees from the area of danger; and (2) conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.

A written report shall be made by or to the Director of Risk Management describing in detail the imminent danger and its abatement. This report will be maintained by the Director of Risk Management in accordance with this plan.

Employee Complaint Procedure

If any employee feels that he/she is assigned to work in conditions which might affect his/her health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Director of Risk Management in accordance with the following process.

1. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his/her health, safety, or general welfare. The employee may sign the letter but need not do so if he/she wishes to remain anonymous.

2. Upon receipt of the complaint letter, the Director of Risk Management will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Director of Risk Management will answer the complaint in writing stating whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

3. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he/she may forward a letter to the Chief Operating Officer or designee explaining the condition(s) cited in his original complaint and why he/she believes the answer to be inappropriate or insufficient.

4. The Chief Operating Officer or designee will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint explaining decisions made and action taken or to be taken.

5. After the above steps have been followed and the complainant is still not satisfied with the results, he/she may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Director of Risk Management and the Chief Operating Officer or designee.

6. Copies of all complaint and answers thereto will be filed by the Director of Risk Management who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

Variance Procedure

The Director of Risk Management may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Director of Risk Management should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development. The procedure for applying for a variance to the adopted safety and health standards is as follows.

1. The application for a variance shall be prepared in writing and shall contain:

2. A specification of the standard or portion thereof from which the variance is sought;

3. A detailed statement of the reason(s) why the City is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented;

4. A statement of the steps the City has taken and will take (with specific date) to protect employees against the hazard covered by the standard;

5. A statement of when the City expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard; and

6. A certification that the City has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.

The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that: (1) the City Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology; (2) has taken all available steps to safeguard employees against the hazard(s) covered by the standard; (3) has as effective Program Plan for coming into compliance with the standard as quickly as possible; and (4) the employee is engaged in an experimental Program Plan as described in subsection (b), Section 13 of the Act.

A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.

Upon receipt of an application for an order granting a variance, the Commissioner to whom

such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one-hundred eighty (180) days.

The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this Section).

Abatement Orders and Hearings

Whenever, as a result of an inspection or investigation, the Director of Risk Management or designee finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Director of Risk Management shall: (1) issue an abatement order to the Department Head; and (2) post or cause to be posted, a copy of the abatement order at or near each location referred to in the abatement order.

Abatement orders shall contain the following information:

1. The standard, rule, or regulation which was found to violated;

2. A description of the nature and location of the violation;

3. A description of what is required to abate or correct the violation; and

4. A reasonable period of time during which the violation must be abated or corrected.

At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Director of Risk Management in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Director of Risk Management shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Director of Risk Management shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

Penalties

No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this Program Plan.

Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the Director of Risk Management, Safety Manager, Department Head or designee.

Recordkeeping and Recording

Recording and reporting of all occupational accidents, injuries, and illnesses shall be in accordance with OSHA requirements.

Standards Authorized

The standards adopted under this Program Plan are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Additional standards may be promulgated by the governing body of the City as deemed necessary for the safety and health of employees. Note: 29 CFR 1910 General Industry Regulations; 29 CFR 1926 Construction Industry Regulations; and the Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, CHAPTER 0800-01-1 through CHAPTER 0800-01-11 are the standards and rules invoked.

Compliance with Other Laws Not Excused

Compliance with any other law, statute, ordinance, or executive order, which regulates safety and health in employment and places of employment, shall not excuse the City, the employee, or any other person from compliance with the provisions of this Program Plan.

Compliance with any provisions of this Program Plan or any standard, rule, regulation, or order issued pursuant to this Program Plan shall not excuse the City, the employee, or any other person from compliance with the law, statue, ordinance, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, ordinance, or executive order, as applicable, is specifically repealed.

B. WORKERS' COMPENSATION/INJURY ON DUTY

The City has elected not to participate in the Tennessee Workers' Compensation Program pursuant to T.C.A. § 50-6-106(1)(B)(6) and has implemented an Injury on Duty (IOD) Policy to provide certain benefits for employees who sustain a job-related injury, illness or occupational disease arising out of the course and within the scope of employment.

The purpose of this policy is to provide uniform procedures for the reporting, treatment and compensation to qualified individuals employed by the City who sustain a job-related injury, condition or occupational disease.

Administration

The Injury on Duty Program shall be administered under the direction of the Program Director. The Program Director shall determine whether an Employee's injury or condition qualifies as an IOD arising out of and in the course of employment and whether an Employee is eligible for medical treatment at the City's expense.

The City shall, through a third party administrator, provide each covered IOD claim with a case manager. All accepted IOD claims will be case managed until the Employee has reached Maximum Medical Improvement (MMI) and, if necessary, a PPI rating has been assigned.

The City shall recognize national guidelines including without limitation American College of Occupational and Environmental Medicine the Official Disability Guidelines.

Definitions

The following terms, phrases and words and their derivatives shall have the meaning given herein:

Employee or Employees**:** As defined in Section IV (4).

First Report of Injury*:* A document created by the employee reporting a job-related injury or illness detailing how the illness or injury occurred.

Injury*:* An injury by accident, a mental injury, occupational disease including diseases of the heart, lung and hypertension, or cumulative trauma conditions including hearing loss, carpal tunnel syndrome or any other repetitive motion conditions, arising primarily out of and in the course and scope of employment, that causes death, disablement or the need for medical treatment of the employee; provided, that:

1. An injury is "accidental" only if the injury is caused by a specific incident, or set of incidents, arising primarily out of and in the course and scope of employment, and is identifiable by time and place of occurrence, and shall not include the aggravation of a preexisting disease, condition or ailment unless it can be shown to a reasonable degree of medical certainty that the aggravation arose primarily out of and in the course and scope of employment;

2. An injury "arises primarily out of and in the course and scope of employment" only if it has been shown by a preponderance of the evidence that the employment contributed more than fifty percent (50%) in causing the injury, considering all causes;

3. An injury causes death, disablement or the need for medical treatment only if it has been shown to a reasonable degree of medical certainty that it contributed more than fifty percent (50%) in causing the death, disablement or need for medical treatment, considering all causes;

4. "Shown to a reasonable degree of medical certainty" means that, in the opinion of the physician, it is more likely than not considering all causes, as opposed to speculation or possibility;

5. The opinion of the treating physician shall be presumed correct on the issue of causation but this presumption shall be rebuttable by a preponderance of the

evidence.

6. An injury may also be referred to as IOD.

Injury on Duty Compensation*:* Payment made by the City to an Employee who sustains an IOD if the Employee is unable to work light or restricted work based on medical documentation from a medical provider. May also be referred to as IOD Compensation.

Light or Restricted Duty*:* A less arduous duty position or an alternate position that may include job classifications and positions in other departments.

Maximum Medical Improvement (MMI): A designation given to an Employee by the medical provider when the Employee has reached the maximum level of improvement from each IOD. May also be referred to as MMI.

Medical Expenses*:* Any hospital, medical, pharmacy or other bills reasonably necessary in connection with an IOD.

Medical Provider*:* Any clinic or occupational medical specialist authorized by the City to provide a diagnosis and/or treatment for IOD claims.

Mental Injury: A loss of mental faculties or a mental or behavioral disorder, arising primarily out of a compensable physical injury or an identifiable work related event resulting in a sudden or unusual stimulus, and shall not include a psychological or psychiatric response due to the loss of employment or employment opportunities.

Occupational Diseases*:* All diseases arising out of and in the course of employment. A disease shall be deemed to arise out of the employment only if:

1. It can be determined to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment;

2. It can be fairly traced to the employment as a proximate cause;

3. It has not originated from a hazard to which workers would have been equally exposed outside of the employment;

4. It is incidental to the character of the employment and not independent of the relation of employer and employee;

5. It originated from a risk connected with the employment and flowed from that source as a natural consequence, though it need not have been foreseen or expected prior to its contraction; and

6. There is a direct causal connection between the conditions under which the work is performed and the occupational disease. Diseases of the heart, lung, and hypertension arising out of and in the course of any type of employment shall be deemed to be

occupational diseases.

Permanent Partial Impairment (PPI): An impairment rating assigned by the medical provider in accordance with current American Medical Association guidelines.

Program Director*:* The Director of Risk Management or his/her designee for the administration of the Injury on Duty Program.

Supervisor*:* A City employee who supervises the work performed by subordinate employees. Departmental supervisors shall have the responsibility of training their subordinate employees in their job-related responsibilities.

Requirements

Employees injured on the job are required to follow the steps outlined in this policy to ensure the injury is reported and to ensure the employee receives appropriate care. Employees must comply with the following requirements to receive IOD Compensation and/or payment of Medical Expenses for covered IODs:

1. All IODs, whether requiring medical attention or not, must be reported to the Supervisor and/ or Safety Specialist immediately or within twenty-four (24) hours after such occurrence.

    a. Failure to report the IOD and complete the First Report of Injury within the twenty-four (24) hour period may result in forfeiture of any IOD benefits, unless the employee is involved in a serious injury and is unable to complete the form within the twenty-four (24) hour period.

    b. In the event the Employee sustains a serious injury prohibiting completion of the First Report of Injury; the Employee shall not be entitled to receive any benefits under the Injury on Duty Program unless the City receives medical documentation from a medical provider giving reasonable excuse for the Employee's failure to complete the First Report of Injury.

2. An Employee must also complete and submit a First Report of Injury to their Supervisor and/ or Safety Specialist. All information requested on the First Report of Injury must be completed, which includes without limitation incident location and time occurred, employee name, department, division, how the incident occurred, what conditions/ acts contributed to the incident, and corrective actions to prevent the recurrence.

3. Employees must seek medical treatment for an IOD within five (5) calendar days from the date of occurrence. Non-compliance with this rule may result in denial of the IOD claim.

4. Employees will receive treatment only at City-designated facilities. In an emergency or after-hour situation, injured employees may receive treatment at the nearest or most appropriate facility based on the severity of the injury (urgent care, emergency

room, 911). Any non-authorized treatment will be paid by the employee except for unavoidable emergency situations. Once an employee is stabilized, the City has the right to direct or relocate the employee to a City- designated medical provider or facility. Non-authorized treatment will result in denial of any future IOD benefits for this specific claim.

5. Employees must follow all orders given by a medical provider, including but not limited to: using prescribed and non-prescribed medications properly; participating in physical exercise or therapy programs; adhering to prescribed dietary programs; keeping appointments; and complying with the medical provider's instructions. Failure to keep scheduled appointments without advanced notification to the medical provider or to comply with a medical provider's orders may result in a termination of benefits.

   a. If an employee misses three (3) scheduled appointments for one specific injury without prior notification to his/her supervisor, safety specialist or medical provider the Employee's IOD benefits may be terminated.

   b. Employees are not permitted to reschedule appointments regarding their injury on duty directly with the provider. If an appointment needs to be rescheduled, employees must do so through the department's safety specialist and/ or the onsite case manager.

6. It is the employee's responsibility to keep his/her supervisor and department informed of all directives, including possible accommodations, issued by the medical provider. These medical directives include, but are not limited to, attending diagnostic and therapy appointments, taking medications as prescribed, and complying with all restrictions relating to the objective of attaining Maximum Medical Improvement.

7. Any physical activity restrictions, prescriptions, and proscriptions rendered by a medical provider in the course of IOD treatment apply twenty-four (24) hours per day during the recovery period.

8. A medical provider's "no work" directive applies to the injured Employee's primary employment with the City, as well all secondary employment. It is the Employee's duty to follow medical directives.

9. If an employee is referred by the City-designated medical provider for a specialist and/or because surgery is ordered, the employee will be given a choice of three (3) specialists/surgeons to choose from when available.

10. If an employee disagrees with or has concerns regarding the medical treatment received from a City-designated medical provider, the employee may request a Quality Review to be coordinated by the City and the City-designated medical provider. This Quality Review must be requested by the employee within ten (10) calendar days of

the treatment in question and the City and the City-designated medical provider shall have thirty (30) days to coordinate and complete the Quality Review. Additional time may be required beyond the thirty (30) days depending on the review required by the City-designated medical provider in which case the City shall communicate with the employee at a minimum on a weekly basis with updates.

Prescriptions for IOD

Injured employees requiring prescribed medications must have their prescriptions filled at the on-site pharmacy. Approval from the Director of Risk Management must be received in order to have the prescriptions filled at other pharmacies.

Exclusions

No IOD compensation or medical expenses shall be paid by the City for the following:

1. Activities neither related to nor in the course and scope of the employee's job. The Director of Risk Management or designee will make such determinations.

2. Injuries or illnesses resulting from the influence of alcohol or from unlawful use of drugs (as determined by a medical provider).

3. Injuries or illnesses resulting from misconduct, including horseplay.

4. Intentional or self-inflicted injury even as a result of a medical or mental condition.

5. Failure or refusal to use safety devices and/or personal protective equipment as outlined in the departmental safety policies, as amended; failure to perform duties as required by law; or failure to follow general safety precautions in performing job duties.

6. On-the-job injuries or illnesses aggravated by any activity while off-duty.

7. Injuries suffered while an employee is traveling to and/or from work.

8. Pre-existing injuries or conditions unless the claim of a work-related aggravation or exacerbation of a pre-existing condition is documented by a medical provider to arise primarily out of and in the course and scope of employment.

IOD Compensation

Except for the exclusions listed in this policy, and provided that employees comply with the requirements of this policy, IOD Compensation will be made in the following manner for covered IODs to employees for a period not to exceed two (2) years after the date on which the IOD occurred:

Initial IOD Compensation Period

1. The City receives medical documentation from a medical provider stating that it is medically necessary for the Employee to remain off work during the period of incapacity, including any follow-up treatments or therapy required by the medical provider.

2. While off work due to an IOD, employees will receive IOD Compensation at the rate of seventy-five percent (75%) of the salary earned at the time of the IOD, not to exceed six (6) months (1040 hours).

    a. IOD Compensation applies only to the periods of time that an injured employee is unable to work full duty or light duty.

    b. If an employee is able to return to work at full duty or light duty, time away from work for medical appointments related to the IOD will be at one-hundred percent (100%) of the Employee's pay.

    c. If the time away from work for a medical appointment related to the IOD exceeds two (2) hours, the employee will be placed on IOD leave and receive IOD compensation for the time away after the two (2) hour limit. Extensions for time away from work due to IOD treatment may be received from the Manager of Wellness and Occupational Health.

3. Time spent on light duty will not count towards the total two (2) year time frame for possible IOD compensation

IOD Extension Period

To receive IOD Compensation beyond the Initial IOD Compensation Period (six (6) months or 1040 hours), the City must receive medical documentation from a medical provider stating that it is still medically necessary for the employee to remain off work.

An additional six (6) months or 1040 hours of IOD Compensation at the rate of sixty-five percent (65%) of the salary earned at the time of the IOD will be paid by the City upon receipt of such documentation.

IOD Compensation shall be considered payment in the nature of a worker's compensation claim as set forth in the Internal Revenue Code and excluded from an employee's gross income.

Paid Time Off and Leave of Absence

Paid Time Off: Paid Time Off accrual will be suspended for an employee who has been placed in a confirmed off work IOD status by a medical provider. The personal leave accrual will resume after the Employee is released by a medical provider to return to work at full or light duty.

Leave of Absence: If an employee who suffers an IOD has reached Maximum Medical

Improvement but is unable to perform his/her pre-injury job because of permanent restrictions, the employee may choose to (a) apply for a leave of absence with or without pay or (b) apply for FMLA leave as provided in the leave of absence policy.

General Pension Plan; Fire and Police Pension Fund

Credited Service: Employees who sustain an IOD shall be entitled to continue to receive full credited service under either the General Pension Plan or the Fire and Police Pension Fund.

Contributions: The City and employees who sustain an IOD shall continue to make contributions on the employee's unreduced base salary to the General Pension Plan or the Fire and Police Pension fund.

Hospital, Medical, or Drug Expenses

Except for the exclusions listed in this policy, and provided that employees comply with the requirements of this policy, the City will pay medical expenses attributable to a covered IOD sustained by an employee for a period not to exceed two (2) years from the date of the IOD.

Death Benefits

If any employee of the City dies as a result of a covered IOD, the City shall pay to the employee's spouse or dependents if there is no spouse, the sum of ten-thousand ($10,000.00) dollars. This provision shall not apply to the Fire and Police Pension Fund members who may otherwise be covered by a separate death benefit.

Actions by Third Parties

When the IOD for which benefits are payable under this Injury on Duty Program arises out of an accident caused by or contributed to by the negligence of a third party, no IOD Compensation, Medical Expenses or other related expenses shall be made by the City until the employee executes a Subrogation and Assignment Agreement, approved in form by the City Attorney, assigning to the City any and all claims or causes of action to which the employee may be entitled to recover against any third person to the extent of any or all such payments as are made by the City. The Subrogation and Assignment Agreement shall include an assignment by the employee to the City of any claim or claims which the employee may have against the employee's uninsured motorist insurance carrier or the employee's homeowner's insurance carrier.

Cessation of IOD Benefits

IOD benefits shall cease when any one (1) of the following occur:

1. Non-compliance with a medical provider's instructions;

2. Approval for long term disability benefits or Social Security Disability benefits;

3. When Maximum Medical Improvement has been reached or a directive to return to

work without restrictions has been provided by a medical provider or a PPI has been assigned;

4. Seeking treatment with a non-authorized medical provider, except for unavoidable emergencies which must subsequently be reviewed for coverage;

5. Expiration of the one (1)-year period from date of IOD for IOD Compensation; expiration of the two (2) -year period from date of IOD for Medical Expenses;

6. Non-compliance with the requirements outlined in this policy;

7. Filing a fraudulent IOD claim; or

8. Incarceration following a conviction of a felony or misdemeanor.

Pre-existing Conditions

Claims of work-related aggravation or exacerbation of a pre-existing condition must documented by a medical provider to arise primarily out of and in the course and scope of employment. To receive IOD benefits, employees must sign an authorization of release of health information pursuant to the Health Insurance Portability and Accountability Act and all available records must be obtained by the employee from the previous treating physician regarding the pre-existing medical condition.

Maximum Benefits; Settlements; Appeal

Maximum Benefits: IOD Compensation shall not extend beyond one (1) year from the date of the IOD, excluding time spent on light duty. Medical expenses shall not extend beyond two (2) years from the date of the IOD.

Settlements: The employee and the City shall have the right to settle all matters of compensation between themselves. The Program Director may approve settlements of less than twenty-five thousand dollars ($25,000.00). In the event that a settlement calculation exceeds twenty-five thousand dollars ($25,000.00), the Program Director shall make a recommendation to City Council for a lump sum settlement award to the employee. Settlement may include or exclude future medical expenses. City Council may establish administrative procedures for the review and approval of settlements. If City Council or any designated hearing body or judge approves an award for settlement of an IOD and the employee accepts the award, all amounts paid by the City and received by the employee shall be a final compromise and settlement of all matters of compensation and future medical expenses. A settlement agreement shall be signed by the City and employee.

Permanent Partial Disability: If an employee reaches MMI and is issued an impairment rating, the City shall offer the employee a lump sum settlement in accordance with the procedures set forth below:

1. Upon receipt of a MMI statement for each approved IOD claim, the Program Director will request that the medical provider determine the degree of permanent or partial

impairment (PPI). The PPI rating will be determined in accordance with the American Medical Association Guidelines.

2. After receipt of the PPI rating, the Program Director will calculate a lump sum settlement using the existing schedule of compensation provided in the Tennessee Worker's Compensation Act, T.C.A. § 50-6-207, for same or similar injuries or impairment as guidance. However, the schedule of compensation may not be binding. The City retains discretion as to the method used to calculate any lump sum settlement, but in no event will the schedule of compensation be less than the amounts provided in the Tennessee Worker's Compensation Act.

3. If an employee is unable to return to his or her pre-injury position, the employee may contact Human Resources within five (5) business days of reaching MMI. When possible, the employee may continue light duty until the reasonable accommodation process is finalized. The employee may also contact Human Resources to apply for other positions within the City that the employee is qualified for.

4. IOD benefits payable under this Injury on Duty Program may be offset by any City-sponsored disability benefits received by employees.

Permanent Total Disability: A permanent total disability is an injury that totally incapacities an employee from working at an occupation that brings the employee any income.

1. If at the end of the IOD Extension Period, an employee is unable to return to work and is totally and permanently disabled and no job is available in which the employee is qualified and selected for, then the employee will be separated from employment with the City. However, an employee who is determined to be permanently totally disabled by a medical provider shall be offered a lump sum settlement calculated in accordance with the above Section.

2. Employees who suffer a permanent total disability shall be required to apply for any City-sponsored disability benefits. IOD benefits payable under this Injury on Duty Policy may be offset by any such benefits received by employees.

Release and Waiver: Any lump sum settlement that is awarded and accepted by an employee resulting in payment after the expiration of the payment periods provided for in IOD Compensation Section and Hospital, Medical and Drug Expenses Section shall be conditioned upon the employee's execution of a release and waiver.

If an employee disagrees with the amount of the lump sum settlement offered by the City, the employee may appeal by requesting a hearing before an administrative law judge (ALJ) within thirty (30) days following the City's written notification of the settlement offer.

Notice of the appeal shall be filed with the Clerk of the City Council ("Clerk"). The Clerk shall notify the Tennessee Secretary of State's Administrative Procedures Division ("APD") that an

appeal has been filed. The APD is authorized to assign an ALJ to conduct a fair and impartial hearing and adjudicate the Employee's appeal.

If the APD's office is not available to conduct a hearing, the Chairperson of the City Council ("Chairperson") shall appoint an ALJ to conduct a fair and impartial hearing and adjudicate the employee's appeal. The ALJ appointed by the Chairperson shall be an attorney licensed to practice law in the State of Tennessee. The Chairperson may remove an ALJ if the ALJ fails to adjudicate an employee, appeal, for cause, or as allowed by law.

The ALJ to whom a case is assigned may convene the parties for a scheduling conference within fifteen (15) days or as soon as practical and shall set a hearing date within ninety (90) days of the date the Employee's written request for a hearing is filed with the Clerk unless the Employee and the City agree otherwise or for good cause shown. The hearing date may be reset by agreement of the parties or for cause.

The ALJ to whom a case is assigned shall provide the Clerk with the hearing date. The Clerk shall issue notice of the hearing date to the Employee, Program Director, ALJ and all other interested parties. The Clerk shall make arrangements for a suitable hearing location.

The ALJ appointed to conduct the hearing shall disclose any possible conflicts of interests and shall not engage in ex parte communications except pursuant to law or rules of the City Council. The ALJ shall determine if there is a reasonable basis for the settlement offer. The ALJ shall affirm the settlement offer is there is a reasonable basis for the calculation of the offer or modify the offer on the basis of the evidence. The ALJ shall prepare a record, including a transcript, list of exhibits admitted into evidence during the hearing and all matters of record for a fair and just adjudication of the Employee's appeal.

The ALJ shall file written findings of facts and conclusions in the Clerk's Office within twenty (20) days after the hearing is concluded and issue the written findings to the Employee and the Program Director. The written decision shall include a statement of available procedures and time limits for seeking reconsideration.

The Program Director or employee, within ten (I0) days after entry of an initial or final order, may file a petition for reconsideration, stating the specific grounds upon which relief is requested. The other party may respond to the request within ten (10) days. The ALJ shall issue a written decision on the request for reconsideration within thirty (30) days of the request.

Any decision of the ALJ appointed under this Section shall be the final decision, except as otherwise may be provided for by law.

Post-Accident/Post-Incident Employee Drug and Alcohol Testing

Post-Accident/Post-Incident drug and alcohol testing shall be conducted in accordance with the City's Drug and Alcohol Testing Policy.

Misrepresentation: Fraudulent Activities

Any employee who willfully makes any false or misleading statement of misrepresentation for the purpose of obtaining any benefits or payments under the Injury on Duty Policy or who presents or causes to be presented any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to this policy, knowing that such statement contains any fact or thing material to such IOD claim, can be criminally prosecuted. Filing a fraudulent IOD claim or engaging in misrepresentation shall be grounds for immediate termination of employment as well as termination of any benefits provided.

IOD Case Investigation

An employee may be contacted by the City for follow-up regarding their IOD claim. IOD claims may be investigated at random.

IOD Review Committee; Appeals

If an employee disagrees with, disputes, or does not understand the medical treatment provided or the Program Director's determination regarding IOD decisions under the Injury on Duty Program, the employee may request a meeting with the Program Director. The meeting must be requested in writing by the employee within ten (10) calendar days following the Program Director's written notification of the final decision. At this meeting, the employee and the Program Director will discuss the facts and review all available information related to the claim in an attempt to explain the decision and to resolve any disputes. The Program Director will explain the employee's rights under the Injury on Duty Program and will attempt to reach a mutual agreement resolving any dispute.

If an employee decides to appeal the outcome of a IOD review meeting, the employee is encouraged to request a Collaborative Mediation within five (5) business days of receiving the IOD decision in writing from the Program Director. This request must be made in writing to the Employee Relations Coordinator in the Human Resources Department. This process will be an attempt to resolve the employment dispute to the satisfaction of both the employee and Department prior to pursuing a post-IOD appeal. The Collaborative Mediation will be facilitated by a Tennessee Supreme Court Rule 31 trained Mediator selected from a list maintained by the Human Resources Department.

If the matter is not resolved during the meeting with the Program Director or if the employee does not request such a meeting, the employee may appeal the decision by requesting a hearing before an Administrative Law Judge (ALJ) within thirty (30) days following the Program Director's written notification of the final decision.

A request for a hearing in accordance with the appeals process covered previously must state specifically those issues in the Program Director's final decision upon which the review is requested. Those provisions of the Program Director's final decision not specified for review or the entire final decision when no hearing has been requested within the thirty (30) day period are considered resolved and not subject to further review.

A request for a hearing must be delivered in writing to the Program Director at the following address:

City of Chattanooga
Employee Benefits Division
101 E. 11th Street, Suite 201
Chattanooga, Tennessee 37402

Failure to request a hearing within thirty (30) days of receipt of the Program Director's final decision shall constitute a waiver of the right to appeal.

The Program Director's final decision shall not be subject to the grievance procedures.

C. LIGHT DUTY

To establish a City-wide policy regarding the assignment of light duty to employees who are recovering from a work-related and/or non-work related injury or illness. Light duty assignments under this policy are specially created temporary job assignments for employees injured or otherwise incapacitated. Such light duty assignments are temporary assignments only, are not vacant or permanent positions within the City's workforce, and are not available to employees on a permanent basis under any circumstances. The availability of such light duty assignments depends on the employee's restrictions and the business needs of the City's departments. The existence of this Light Duty Policy in no way guarantees that light duty will be available at any given time, or for any particular employee who requests it and an assignment of light duty is not a right of employment.

As provided in this policy, light duty is allowed with the approval of the Department Head or designee, as long as necessary and meaningful work is performed. In assigning light duty, the Department Head or designee will take the employee's skills and abilities into consideration. The decision of the Department Head or designee regarding light duty assignment is not subject to grievance or appeal.

Procedures

Light Duty Placement for Work-Related Injuries

The employees' medical provider and/or Onsite Medical Case Manager shall be responsible for receiving the employee's medical information and determining an employee's limitations of his/her duties. The medical confirmation shall be maintained in in the employee's health records. All medical/health information is considered confidential.

The employee shall be responsible for communicating all medical restrictions to his/her supervisor. The employee must comply with all instructions or recommendations and keep all appointments as stated in the City's Injury-On-Duty Policy. The employee's department

designee and/or Manager of Wellness and Occupational Health will evaluate the medical restrictions to determine if they can accommodate the restrictions and place the employee in a position that meets the limitations recommended by the medical provider.

Any employee assigned to light duty will receive his/her normal weekly or bi-weekly check if the employee works the complete pay period associated with the light duty assignment (refer to the Injury-On-Duty Policy).

If the employee is placed on light duty outside his/her normal work area, the reporting supervisor is responsible for insuring that actual hours worked, personal leave taken, etc., are reported to the employee's supervisor and/or Safety Specialist.

Employees on light duty are required to follow the policies and procedures of the department to which they are assigned. If for any reason after the light duty assignment is made the employee claims to be unable to perform the light duty assignment, the employee shall be sent immediately to the City's onsite medical clinic for re-evaluation. An employee should not be sent directly home unless the problem develops after normal working hours or on weekends. If an employee is unable to perform the light duty assignment after normal working hours or on a weekend, the employee should be instructed to report to the City's onsite medical clinic at 8:00 a.m. on the next business day.

Employees released to work light duty due to a work-related injury may choose to remain off work under the Family Medical Leave Act ("FMLA"), if eligible, and may choose to be on FMLA up to the entitlement of twelve (12) weeks. If an employee chooses to take FMLA, they may not be entitled to IOD pay but will utilize PTO in accordance with the City's FMLA policy. FMLA leave will also run concurrent with Injury on Duty (IOD) leave.

There is no mandatory requirement to place employees recovering from work related injuries/illnesses into any light duty program. Due to the limited number of positions available, the City reserves the right to make the final determination as to the conditions under which such provisions are made available.

Light Duty Placements for Non-work Related Injuries

If the employee has been issued restrictions by a personal physician, the employee's department designee and/or Manager of Wellness and Occupational Health will evaluate the restrictions to determine if they can accommodate the restrictions and place the employee in a position that meets the restrictions recommended by their personal physician. There is no mandatory requirement to place employees recovering from non-work related injuries/illnesses in to any light duty program. Due to the limited number of positions available, the City reserves the right to make the final determination as to the conditions under which such provisions are made available.

Duration of Light Duty

Light duty, as defined in this policy, is temporary, not indefinite. Light Duty will not extend beyond six (6) months. If the employee has not sufficiently recovered to return to his/her

pre-injury/illness position within this time period, the City will review the employee's restrictions and engage the employee in a discussion about how the City may help the employee perform his/her job. The review will take place to access the possibility of the employee returning to regular duty within a reasonable period of time. If there is a high expectation that the employee will be able to return to unrestricted job duties, light duty may be extended beyond six (6) months as recommended by the Department Head or designee, and approved by the Human Resources Director, as part of a reasonable accommodation.

Injuries and illnesses resulting in permanent restrictions with a reasonable expectation that the employee will be unable to return to their position will be managed under the ADA guidelines and process

D. RETURN TO WORK/FIT FOR DUTY

The City is committed to maintaining a safe and productive workplace. The City requires that every employee report to work fit to perform his or her job in a safe, secure, effective and productive manner for the entire shift. For the purpose of this policy, "fit for duty" refers to the ability of an employee to perform the essential functions of the job. Employees who are not fit for duty may present a safety hazard to themselves, co-workers, or the public.

The City is committed to equal employment opportunity, and it prohibits discrimination against qualified individuals with disabilities. This policy is to be construed consistent with that commitment and incompliance with applicable law, including the Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA).

The Department Head, supervisor and Manager of Wellness and Occupational Health will work as a team when the department intends to utilize this policy to ensure fairness and consistency.

Return to Work

Any employee returning to work from an extended leave as a result of a serious injury or illness, extended absence, or from any other health-related circumstance that may call to question their ability to perform the essential functions of the job in a safe and effective manner, must provide a medical release to return to work from a physician to the department designee.

A medical release must be received by the department designee before the employee will be permitted to return to regular duty.

If the supervisor believes that the employee's condition could affect the safety of the employee or others, the supervisor will immediately refer the employee to the City's onsite occupational medical clinic for evaluation.

In cases where the employee is removed from duty or needs to be referred for a medical

evaluation and/or treatment, the City's onsite occupational medical clinic will contact the department designee and the Manager of Wellness and Occupational Health regarding the situation immediately or as soon as reasonable.

Referral for Medical Evaluation

The Safety Specialist and/or department designee determine the need for an employee's fit for duty medical evaluation or fitness assessment under the following circumstances:

1. A supervisor or Department Head may make a personal observation that the employee is unfit for duty or receives a reliable report of an employee's possible lack of fitness for duty. Observations or employee self-report may include without limitation problems with manual dexterity, coordination, concentration, memory, alertness, vision, speech, inappropriate interactions with coworkers or supervisors, inappropriate reactions to criticism, outbursts, hostility, violent behavior, reasonable suspicion (via odor or observation) of drug or alcohol use, or suicidal or threatening statements or any other factor or combination of factors that causes a supervisor or Department Head to reasonably believe that a fit for duty evaluation may be necessary.

2. When an employee is unable to perform an essential function of the job.

3. When there exists a legitimate concern about whether the employee's job performance poses a direct threat to the safety and health of the employee or others.

4. To determine the necessity for a reasonable accommodation, or existence of a reasonable medical accommodation.

5. When medical evaluation, screening, and monitoring is required by federal, state, or local law.

6. When an employee or an employee's family member has a Serious Health Condition, as defined by the Family Medical Leave Act or outlined in National Fire Protection Association Standard 1582 and is ready to return to work.

The determination by a supervisor or Department Head to refer an employee for a fit for duty evaluation must involve consultation with a Human Resources representative. Supervisors requesting a fit for duty evaluation will complete a Supervisors Observation Report and forward to the City's Compliance Officer. The supervisor will present the information or observations to the employee at the earliest possible time in order to validate them and will allow the employee to explain his or her actions, or to correct any mistakes of fact contained in the description of those actions. The supervisor will then determine whether the employee should leave the workplace immediately for safety reasons.

In situations where there is a basis to think that a crime may have been committed and/or the employee is making threats to harm himself or herself or others, or is acting in a manner that is immediately dangerous to himself or herself or others, the supervisor shall contact the

Chattanooga Police Department. The City's onsite occupational medical clinic should be consulted regarding the fit for duty procedure after the immediate safety issue has been addressed.

Employees being referred for a fit for duty evaluation will be relieved of duties and placed on paid administrative leaving pending completion of the evaluation and receipt of the results by the City.

In all cases, an employee who has been referred for a fit for duty evaluation must provide a Release in order to return to work. Failure to comply with a fit for duty examination and all necessary releases for information may constitute misconduct leading to disciplinary action up to and including dismissal.

Fit for Duty Examination

The purpose of the medical evaluation is to determine if the employee can perform the essential functions of the job in a safe manner and if there is a need for restrictions. The fit for duty will be performed at the direction of the City's onsite medical clinic and may include without limitation a health history, physical, and/or psychological examination and any medically indicated diagnostic studies.

The City's onsite medical clinic will report the results of the fit for duty evaluation in writing to the Manager of Wellness and Occupational Health. . The report will indicate one of the following: (1) the employee is fit for work without limitations; (2) the employee is fit for work with limitations; (3) the employee is not fit for work; or (4) the employee is deemed unfit for duty, but deemed fit with a reasonable accommodation.

An employee who is found to be fit for duty and who is in compliance with recommendations for medical, psychological or substance abuse treatment (including continuing random drug and alcohol testing if applicable) will be returned to his/her job.

If an employee is found fit with restrictions, the City will consider whether reasonable accommodations are required consistent with City policy and the ADA. If the City's onsite medical clinic has assessed an employee is fit with restrictions, the Human Resources Department and the Department Head may work with the employee on recommendations that support a successful return to work.

If an employee is found unfit for duty, the City will take appropriate actions consistent with the particular circumstances, City policy and applicable law.

The supervisor or Department Head should consider that employees seeking treatment may qualify for Family and Medical Leave. Each case should be assessed to determine if Family and Medical Leave is appropriate. The employee should contact the City's Family and Medical Leave third party administrator to begin the approval process.

If the employee does not agree with the fit for duty exam results, he or she can seek a second opinion by contacting the Manager of Wellness and Occupational Health. The employee will

be responsible for the costs of the second opinion.

E. VEHICLE ACCIDENT PREVENTION POLICY

The Vehicle Accident Prevention Policy is designed to eliminate or reduce injuries and loss of property from City vehicle and/or equipment accidents by providing a basic list of responsibilities and duties, providing definitions, checklists, preventability types, and outlining disciplinary actions.

This policy applies to all vehicles operator and vehicles owned or managed by the City of Chattanooga. Departments may evoke stricter rules to enforce more specific or stringent accident policies.

Definitions

City Driver: a City employee authorized to operate a City vehicle.

City Vehicle: all vehicles operated, owned, or managed by the City of Chattanooga, or a privately owned vehicle operated within the scope of employment.

Motor Vehicle Accident: an event that occurs in the roadway or right of way or on private or city owned property involving a City vehicle that is in motion that results in property damage, bodily injury, or death.

Vehicle Incident (Operator Error): is an event that occurs when the vehicle/equipment is stationary, working in a static location, and property damage occurs because the driver failed to exercise reasonable care and precaution to avoid the incident. *The accumulation of four (4) vehicle incidents in a thirty - six (36) month period will be considered equivalent to one preventable accident.*

Preventable Accident: a motor vehicle accident involving a City vehicle where the City driver failed to exercise reasonable care and precaution to avoid the accident and resulted in damage equal to or in excess of one-thousand and five hundred dollars ($1,500.00), or in significant personal injury to the driver of the City vehicle or another person, including but not limited to a fatality or human injury requiring medical treatment away from the scene of the accident.

Minor Preventable Accident: a motor vehicle accident involving a City vehicle where the City driver failed to exercise reasonable care and precaution to avoid the accident and resulted in damage less than one- thousand and five hundred dollars ($1,500.00) and does not result in injury to the City driver or another person. *The accumulation of two (2) minor preventable accidents in a thirty- six (36) month period will be considered equivalent to one preventable accident.*

Property Damage*:* is damage to or the destruction of public or private property, cause by a City employee who is not the owner. Property damage caused by a City employee is generally

categorized by its cause: 1. Neglect (including oversight and human error), and 2. Intentional damage (intentional property damage is often, but not always, malicious). All property damage claims must be classified under the definitions of "Preventable Accident" or "Minor Preventable Accident" or "Non-Preventable Accident."

Non-Preventable Accident: a motor vehicle accident involving a City vehicle where the city driver was determined to be free of fault.

Moving Traffic Violation: any citation issued by a law enforcement officer resulting in conviction by any court of a violation of any state or municipal law or ordinance governing or relating to the operation of City vehicles; a voluntary payment of a fine is equivalent to a conviction.

Abuse: a willful or wanted misuse, neglect, or extreme treatment of a vehicle or equipment beyond the specified purpose or capabilities for the vehicle or equipment that results in inordinate wear or damage. Evidence of abuse shall be treated as a Preventable Accident.

Accident Review Board: The City's Accident Review Board determines whether accidents involving City vehicles were preventable or non-preventable.

Employer Responsibilities

Responsibilities of the City shall include, but are not limited to, the following provisions:

1. Ensure that all City driver are informed of this policy. City drivers shall sign a statement acknowledging that they have received a thorough review of the policy. This signed statement shall be placed in their employee file. Supervisors shall maintain a copy of the policy for reference.

2. Ensure the safe maintenance and operation of all City vehicles.

3. Ensure that all City drivers are trained in defensive driving principles and in the safe operation of City vehicles.

4. Ensure that supervisors and accident investigators are trained in the detection of alcohol and drug impairment.

5. Enforce the provisions of this vehicle accident prevention policy.

6. Ensure that thorough and timely accident investigations are conducted and reported.

7. Provide a process for the formal review of vehicle accidents to determine preventability.

8. Develop safe driving behaviors through prompt corrective actions.

9. Ensure that safety and maintenance are considered when purchasing vehicles and equipment.

Supervisor Responsibilities

Responsibilities of supervisors shall include, but are not limited to, the following provisions:

1. City driver's file shall be maintained by each division.

2. Supervisors shall enforce the provisions of this vehicle accident prevention policy.

3. Supervisors shall routinely monitor the driving of each City driver while performing job related driving responsibilities.

4. Supervisors shall review driving records as a part of employee performance evaluations.

5. Supervisors shall report accidents as indicated in this policy.

6. Supervisors shall ensure that employees attend required defensive driver training.

City Driver Responsibilities

Responsibilities of City driver's shall include, but are not limited to, the following provisions:

1. City drivers shall sign a statement acknowledging that they have received a thorough review of the policy. This signed statement shall be placed in their employee file.

2. City drivers shall operate City vehicles in a safe and efficient manner.

3. City drivers are responsible for obeying all Federal, State, and local laws while operating the City vehicle; the City driver will be responsible for all fees, fines and/or penalties imposed as a result of any infractions.

4. City drivers are responsible for ensuring they have a valid driver's license.

5. City drivers that operate commercial vehicles are responsible for ensuring they maintain a valid Driver's License and DOT medical card and renewed all license and DOT medical card before the expiration date. City drivers should schedule their DOT medical card physicals one (1) month prior to the expiration date.

6. The City driver is responsible for all passengers being transported in the City vehicle. The driver operating the City vehicle will ensure that all persons in the vehicle use seat belts and are properly adjusted prior to starting the engine.

7. A City driver shall not exceed the City vehicles occupancy rating or load rating.

8. Before operating the City vehicle and at least once per day, the City driver shall check to make certain that all vehicle safety equipment including headlights, turn signals, brake lights and windshield wipers, are functioning properly. Refer to Section XIII City vehicle Inspections for more details.

9. The City driver is responsible for securing cargo, materials, and/ or tools. The City driver shall be responsible for covering all utility vehicles that are used to transport items such as brush and trash, gravel, etc., with a tarpaulin or some other acceptable covering. This protective covering must be placed completely over the truck's bed when it is traveling over the roadway. An exception to this will be in emergencies brought on by adverse weather conditions, where the materials loaded are intended to be spread on the roadways.

10. Prior to leaving a job site, City drivers shall check the city vehicle for debris such as mud or gravel between tandem axles and dual tires/wheels, on tailgate, and on any other surface that debris could accumulate. All debris found shall be removed.

11. All City vehicles shall be washed to ensure that objects that may become airborne and cause damage to other vehicles do not accumulate.

12. City drivers are responsible for ensuring that the interior of the City vehicle is properly maintained in a clean condition and that all tools and materials are properly stored. All trash shall be removed daily.

13. A City driver who leaves the City vehicle unsecured shall receive disciplinary action. This excludes vehicles with emergency equipment while at the scene of an emergency.

14. City drivers shall inspect and maintain the City vehicle daily.

Driver Training

City drivers shall complete a defensive driver training course and repeat this training at least once every three (3) years. New City drivers and employees with job duties that include driving a City vehicle, shall complete a defensive driver training course at the first available course date after the commencement of employment. City drivers who are involved in a preventable vehicle accident will be required to attend defensive driver training.

City Driver Qualifications

Each department will ensure that all of their drivers are trained in defensive driving principles and in the safe operation of City vehicles. As part of the Human Resources Department's pre-employment process, new drivers shall be thoroughly screened. Screening shall include, but not be limited to, verification of a valid state driver's license, driving experience for a period of no less than three (3) years prior to application for employment, and a check with the State Department of Motor

Vehicles for traffic violations and accidents.

1. Only employees with a valid state driver's license and proper authorization may drive a City vehicle.

2. Authorization to drive a City vehicle will be determined by the City driver's possession of a state driver's license and completion of training in the safe operation of the City vehicle being utilized. Training shall be conducted by a qualified supervisor.

3. The job description shall designate the type of driver's license required for the position. All City drivers shall maintain a valid driver's' license of the type required by the job description for their position.

City Driver File

A City Driver's file may be electronic or paper copy, and must be safe guarded with limited user access. Driver's file shall be maintained by each department/division to include administrative staff within the department/division. All City drivers' licensed shall be reviewed bi-annually by each department/division.

This file shall be maintained for every City driver by the department/division. At a minimum, the file shall contain:

1. A copy of the City driver's license;

2. The job description which outlines the type of City vehicles the City driver is authorized to operate;

3. A signed statement acknowledging the thorough review of this policy;

4. A defensive driving certificate if available;

5. A copy of the City driver's vehicle accident reports including the determination of preventability and cost of repairs.

6. A copy of the DOT medical card (when applicable).

7. A copy of all safe driving awards or recognitions.

8. A copy of any disciplinary action associated with failure to follow this policy.

9. Copies of specific training documentation related to this policy or safe operation of City equipment.

Commercial Driver License Driver Qualifications

1. All Commercial Motor Vehicle drivers seeking a medical examination/certificate must use a certified medical examiner on the National Registry.

2. All City drivers who possess a Commercial Drivers' License (CDL) as a requirement of their job description shall obtain their Department of Transportation (DOT) physical through the City's on-site medical center. Occupational providers at the on-site medical center are nationally certified examiners listed on the National Registry.

3. All newly hired CDL City drivers shall obtain a new medical card through the City's on-site medical center before they can begin employment.

4. Federal Motor Carrier Regulations 49 CFR 391.43 mandates the DOT medical card be kept in the driver file.

5. DOT medical cards shall be reviewed on a regular basis by the department/ division to ensure that they are current and valid

6. If an employee does not possess a valid DOT medical card, the employee may be placed in one of the following status-es:
   a. Personal light duty if available,
   b. Paid time off (PTO) and must apply for FMLA that will run concurrent, or
   c. Apply for leave without pay status.

7. CDL City drivers that are found to have a medical condition that prevents them from completing their DOT physical will follow-up on their medical condition with their primary care physician. City drivers who fail, or otherwise cannot complete their DOT physical shall not be permitted to operate City vehicles until they successfully complete their DOT physical through the City's on-site medical center.

8. All CDL City drivers are subject to random drug and alcohol screens in accordance with the Federal Motor Carrier Safety Administration (FMCSA), and the City of Chattanooga Drug and Alcohol Policy.

City of Chattanooga Seat Belt Policy

We value the lives and safety of our employees. Because it is estimated that seat belts reduce the risk of dying in a motor vehicle crash by forty-five percent (45%), the City of Chattanooga has adopted a policy concerning employee seat belt usage.

The City of Chattanooga Seat Belt Policy applies to employees on-duty travel in a vehicle owned or leased by the City of Chattanooga, in a rental vehicle provided by the City of Chattanooga, or in the employees personal vehicle operated within the scope of employment, and/or in any heavy equipment operated for the City of Chattanooga where a seatbelt is

installed by the manufacturer, and includes:

1. In addition to following all traffic regulations, all employees and their passengers are required to use a seat belt when traveling in any vehicle while in the course of conducting city business.

2. Seatbelts must be properly worn as designed by the manufacturer. A seat belt functions to reduce the likelihood of death or serious injury in a traffic collision by reducing the force of secondary impacts with interior strike hazards, by preventing occupants being ejected from the vehicle in a crash or if the vehicle rolls over therefore a seatbelt must be worn properly, meaning shoulder belts must be worn across the shoulder (*not under the arm or behind the back*) and lap belts across the lap (*not behind or under the occupant*).

3. Seat belts are required by all occupants at all times when the vehicle is in motion. Wearing a seat belt is TN law. Both Driver and Passenger shall be cited for violation if the vehicle is in motion and the passenger is found to be in not properly wearing a seatbelt.

4. The use of seat belts is to be considered a condition of employment. Failure to abide by state law and this policy will be considered a breach of that condition of employment, and subject employees in violation to disciplinary action, including suspension or termination.

Distracted Driving/Electronic Devices

The City encourages the safe use of cellular telephones by employees who use them to conduct business for the City of Chattanooga with the following expectations:

1. Employees who use hand-held cellular phones while on City business should refrain from making or receiving all phone calls while driving. If an employee needs to make or receive a phone call while driving, the employee should ensure the vehicle is stopped and parked in a proper area for the call.

2. Employees who use hands-free telephones must keep conversations brief while driving, and must stop the vehicle and park in a proper area if the conversation becomes involved, traffic is heavy, or road conditions are poor.

3. Employees who are faced with an emergency, such as a traffic accident or car trouble, or in a situation involving sworn fire or police personnel responding to or assisting with an emergency situation may find it necessary to make a phone call while driving.

4. No employee shall utilize text messages while driving. This includes reading a received text message, writing a new or response text message, sending photos, documents, videos, or other data via text messages or email.

5. No Employee shall utilize applications while driving. This includes playing games,

opening, using or manipulating 'apps' of any kind. Opening documents, reading emails, writing new or response emails, viewing photos, viewing videos, or downloading any data. Additionally included are 'browsing' or 'surfing' the internet, music files, photo or video albums, or altering menus or data collections stored inside the phone.

6. City employees who operate Commercial Motor Vehicles or heavy equipment requiring a CDL, must adhere to all Federal Motor Carrier Safety Administration (FMCSA) guidelines, which include the ban on some cell phone operations. FMCSA, part of DOT, enforces comprehensive regulations that cover trucks and passenger vehicles in the motor carrier industry. These regulations include commercial driver's license standards (49 CFR 383), qualifications of drivers (49 CFR 391), safe operation of commercial motor vehicles (49 CFR 392), and parts and accessories necessary for safe operation of commercial vehicles (49 CFR 393).

7. Employees who are found to have violated this policy may be subject to progressive disciplinary action up to and including termination from employment.

City Driver Fit For Duty

1. Supervisors should always be alert to City driver's fitness for duty.

2. Employees must report to their supervisor the use of any prescribed or over-the-counter medication that may potentially impair their mental or physical abilities to perform the functions of their job safely and effectively. Notice must be provided to the City's Occupational Physician who will work with the individual's prescribing physician to evaluate whether the medication affects the individual's ability to safely perform any essential job function.

3. Supervisors shall watch for signs of impairment, to include:

    a. The immediate supervisor of the employee in question should contact their Safety Specialist and/or Department Head, who will make the necessary arrangements to assess the employee's condition.

    b. If the supervisor believes that the condition could affect the safety of the employee or others, the supervisor will immediately take the employee off duty.

    c. Refer to Fit for Duty policy for further procedures.

City Vehicle Inspections

All City vehicles shall undergo preventative maintenance as scheduled.

All City drivers shall conduct a daily pre-trip inspection of the City vehicles. At a minimum, the daily inspection shall include:

1. The exterior of the City vehicle for damage that may have occurred;

2. The interior of the City vehicle for the presence of any material or unsecured tools that may interfere with operating mechanisms or become projectiles in the event of an accident;

3. Presence of fluids underneath the City vehicles;

4. Proper brake operation;

5. Lights and all visual warning devices are operational;

6. Audible warning devices are operational;

7. Windshield and wipers clean and in good repair;

8. Tires in good repair;

9. Steering mechanism;

10. Mirrors adjusted properly and in good repair;

11. Functioning dash warning lights;

12. Presence of safety-related equipment (fire extinguisher, safety triangles, etc.) assigned to the City vehicle.

The City driver shall assure that proper fluid levels are maintained in the City vehicle. These items shall be checked each time fuel is added to the City vehicle.

Departments/divisions may require more detailed daily inspections for City vehicles.

Air tanks for all City vehicles equipped with air brakes shall be drained at the end of each day of service.

A City driver whose City vehicle is towing a trailer or other equipment shall ensure that the trailer is securely latched, safety chains are properly attached, and auxiliary lighting functioning.

City drivers shall report to their immediate supervisor and/or Fleet Maintenance all problems or mechanical defects affecting City vehicles. No City vehicle shall be abandoned or driven in for repairs until arrangements are made for the City vehicle to be returned to the fleet maintenance garage.

Accident Reporting Requirements

If a City driver has an accident in a City vehicle, or personal vehicle used in the scope of employment, that causes injury to any person or damage to anything, it must be reported immediately to their supervisor.

Failure to report the vehicle accident immediately and/or prior to leaving the scene of the vehicle accident will be considered a willful violation of City Policy and the City driver shall be disciplined under the provisions of Section XI (6) in this guide.

All accidents involving a City vehicle while traveling the city, county and state roads shall be reported to the police immediately. The City driver shall move the City Vehicle out of the roadway if there are no serious injuries and the City vehicle is operable. Failure to report a traffic accident is a violation of state law and may result in the driver receiving a citation.

City drivers shall only discuss vehicle accidents with the Police, their supervisor or the City's Attorney's Office unless otherwise directed.

City drivers shall not admit responsibility, offer to make any kind of settlement, or sign any statement at the scene of an accident unless directed by the Police Officer or other City Accident Investigator.

City drivers shall adhere to the following if involved in a vehicle accident:

1. Assist injured persons as far as you are able. Do not move seriously injured persons unless necessary for their protection against further injury. When reporting the accident to police, inform them of any injuries;

2. Call supervisor and/or police immediately;

3. Do not leave the scene of an accident;

4. Utilize traffic control devices, if available;

5. Move the City vehicle out of the roadway if no serious injuries and/or the vehicle is operable;

6. If the accident involves damage to an unattended vehicle or a fixed object, immediately notify supervisor, contact the police for a traffic report; and

7. Take pictures of the accident whenever possible.

The supervisor, upon receiving notice of an accident involving bodily injury or property damage, shall immediately notify the manager, division director, and occupational safety specialist.

The division head shall notify the Department Head of all accidents.

An accident report shall be completed by the supervisor, Occupational Safety Specialist, or Accident Investigator before the City driver leaves work for that day. This report shall be given to the division director, Safety Specialist, or Department Head along with any accident scene photos, witness statements, diagrams, pre-trip inspection sheets. Either a police report number or completed Police report should also accompany the accident report.

Any City driver whose "willful, wanton, or criminal conduct" results in a vehicle accident may be personally liable for damages and other civil penalties.

The City's Drug and Alcohol Policy will be followed to determine if post-accident testing will be conducted.

Accident Preventability Determination

An Accident Review Board composed of members of the Department/Division is responsible for determining whether or not a City vehicle accident was preventable.

1. The selection process of the board members will be determined by the Department Head and include both supervisory and non-supervisory members.

2. The non-supervisory members of the board will serve for a period of one (1) year.

3. The board shall always be comprised of an odd number of members.

The Accident Review Board will meet monthly, as appropriate, to analyze vehicle accidents using criteria for preventability adopted from the National Safety Council.

Any accident resulting from a City driver backing the City vehicle shall be presumed a preventable accident, except cases of extreme extenuating circumstances or emergencies.

The City driver will be notified in advance of when their accident will be reviewed where they will be given an opportunity to make a full explanation of the event.

A standardized report of findings will be submitted to the division head for their review. The Department Head or designee will recommend the appropriate corrective actions in accordance with this policy.

A City driver who contests the Accident Review Board's findings can appeal to the Accident Review Committee through written request to the City Safety Manager within ten (10) calendar days of being notified of the board's findings.

If the City driver contests the Accident Review Committee's findings, the city's grievance and appeal process will be utilized.

Preventability and Determination Guide

This guide provides information on accidents types and their respective preventability ruling as cited in the National Safety Council's Guideline for Determining Preventability. For additional assistance, contact Human Resources.

City Vehicle/Equipment Struck in Rear by Other Vehicle/Equipment

Non-preventable if:

1. Driver's vehicle was legally and properly parked.

2. Driver was proceeding in own lane of traffic at a safe and lawful speed.

3. Driver was stopped in traffic due to existing conditions or was stopped in compliance with traffic sign or signal or the directions of a police officer of other person.

4. Driver was in proper lane, stopped and waiting to make turn.

Preventable if:

1. Driver was passing slower traffic near intersection and had to make sudden stop.

2. Driver made sudden stop to park, load or unload.

3. Driver's vehicle was improperly parked.

4. Driver rolled back into vehicle behind.

City Vehicle/Equipment Struck While Parked

Non-preventable if:

1. Driver was properly parked in a location where parking was permitted.

2. Vehicle was protected by emergency warning devices as required by federal and state regulations, or if driver was in process of setting out or retrieving signals.

Accidents at Intersections

Preventable if:

1. Driver failed to control speed so that he could stop within available sight distance.

2. Driver failed to check cross-traffic and wait for it to clear before entering intersection.

3. Driver pulled out from side-street in the face of oncoming traffic.

4. Driver collided with person, vehicle or object while making right or left turn.

5. Driver, going straight through an intersection, collided with another vehicle making a turn.

City Vehicle/Equipment Strikes Other Vehicle/Equipment in Rear

Preventable if:

1. Driver failed to maintain safe following distance and keep vehicle under control.

2. Driver failed to stay alert to traffic conditions and note slowdown of traffic ahead.

3. Driver failed to ascertain whether vehicle ahead was moving slowly or driver failed to stop slowing down for any reason when required.

4. Driver misjudged rate at which vehicle was overtaking vehicle ahead.

5. Driver came too close to car ahead before pulling out to pass.

6. Driver failed to wait for car ahead to move into the clear before starting up.

7. Driver failed to leave sufficient room for passing vehicle to get safely back in line.

Sideswipe and Head-On Collisions

Preventable if:

1. Driver was not entirely in the proper lane of travel.

2. Driver did not pull to the right and slow down and stop for vehicle encroaching on own lane of travel when such action could have been taken without additional danger.

City Emergency Response

Preventable if:

1. Driver failed to engage lights and/or sirens as mandated by the department/division.

2. Driver did not proceed with through traffic at a reduced speed and under guidelines taught by the department/division.

Non-Preventable if:

1. Driver's vehicle is struck because of an opposing driver's failure to yield the right-of-way in accordance with the 'Move Over Law' TCA 55-8-132.

Backing Accidents

Preventable if:

1. All backing accidents are presumed preventable unless except in cases of extreme extenuating circumstances or emergencies.

Accidents Involving Train

Preventable if:

1. Driver attempted to cross tracks directly ahead of oncoming train.
2. Driver ran into side of train.
3. Driver stopped on or parked too close to train tracks.

Accidents That Occur While Passing

Preventable if:

1. Driver passed when view of road ahead was obstructed by hill, curve, vegetation, traffic, adverse weather conditions, etc.
2. Driver attempted to pass in the face of closely approaching traffic.
3. Driver failed to warn the driver of the vehicle being passed.
4. Driver failed to signal change of lanes.
5. Driver pulled out in front of other traffic overtaking from rear.
6. Driver cut-in short while returning to right lane.

Accidents That Occur While Being Passed

Preventable if:

1. Driver failed to stay in own lane, or hold, or reduce speed to permit safe passing.

Accidents That Occur While Entering Traffic Stream

Preventable if:

1. Driver failed to signal when pulling out from curb.

2. Driver failed to check traffic before pulling out from curb.

3. Driver failed to look back to check traffic if driver was in position where mirrors did not show traffic conditions.

4. Driver attempted to pull out in a manner, which forces other vehicles(s) to change speed or direction.

5. Driver failed to make full stop before entering from side street, alley or driveway.

6. Driver failed to make full stop before crossing sidewalk.

7. Driver failed to yield right of way to approaching traffic

Pedestrian Accidents

Preventable if:

1. Driver did not reduce speed in area of heavy pedestrian traffic.

2. Driver was not prepared to stop.

3. Driver failed to yield right of way to pedestrian.

Accidents Related to Mechanical Defects

Preventable if:

1. Defect was of a type which driver should have detected in pre-trip inspection of vehicle.

2. Defect was a type which driver should have detected during the normal operation of the vehicle.

General Accidents

Preventable if:

1. Driver was not operating at a speed consistent with the existing conditions of the road, weather, and traffic.

2. Driver failed to control speed so that vehicle could stop within assured clear distance.

3. Driver misjudged available clearance, regardless of overhead signage.

4. Driver failed to yield right of way to avoid accident

5. Driver failed to accurately observe existing conditions and drive in accordance with those conditions. Including weather or environmental conditions present.

6. Driver failed to yield right of way to avoid an accident.

7. Driver was inattentive.

8. Driver was under the influence of alcohol or drugs.

9. Driver was in violation of City policy, the regulations of any federal or state regulatory agency or any applicable traffic laws or ordinances.

Property Damage

Preventable if:

1. All Property damage claims must be classified under the definitions of "Preventable Accident" or "Minor Preventable Accident" or "Non-Preventable Accident"

Sworn Personnel Emergency Response

Preventable if:

1. Sirens and/or Lights not engaged while responding to an emergency.

2. Driver failed to use due caution as trained while responding to an emergency.

Corrective Actions

NOTE: The following corrective actions are the generally accepted guidelines to be exercised by the applying manager's best judgment. In the event that a vehicle accident is compounded by other violation(s) or infraction(s) outside the scope of this policy, the Department Head or designee may choose a more appropriate, more severe action.

Occurrence of first preventable accident and/or moving traffic violation conviction:

1. Letter of reprimand to personnel file

Occurrence of second preventable accident and/or moving traffic violation conviction within

any thirty-six (36) consecutive month period:

1. Letter of reprimand to personnel file and;

2. Suspension for five (5) days.

Occurrence of third preventable accident and/or moving traffic violation conviction within any thirty-six (36) consecutive month period:

1. Letter of reprimand to personnel file and;

2. Suspension for fifteen (15) days and demotion to a non-driving position; or

3. Termination of employment.

Any preventable accident caused by the City driver for which an officer issues a citation for speeding, reckless driving, disregard of appropriate Tennessee driving regulations, and/or careless/negligent conduct will be subject to a special hearing by the Accident Review Board. Upon receipt of findings, appropriate disciplinary action up to and including dismissal may be recommended by the division director. In those instances where demotion or dismissal is recommended, the division director will make the appropriate recommendation to the Department Head for approval.

Determination of a City driver's accident time line for the purpose of corrective actions shall be measured from the date of the accident under review backwards thirty-six (36) months to determine second and third accident status.

Notwithstanding the provisions set forth above, a City driver who's driving record shows repeated preventable accidents shall be subject to dismissal based on the City driver's complete driving record.

Rights of Grievance and Appeal

Nothing contained in this policy shall constitute a waiver of any rights or remedies of the City of Chattanooga, its officers, agents, or employees under any laws, ordinances, or regulations of the State of Tennessee or the City of Chattanooga.

City drivers disciplined in accordance with the foregoing defined "Vehicle Accident Prevention Policy" retain the right as specified in this Guide to present a grievance in writing and appeal the disposition of their case.

Procedures following an Accident

In the event of a City vehicle accident or property damage occurs, the following guidelines shall be used. Specific questions relating to accident claims may be answered by contacting

Human Resources.

1. <u>Immediately following a Vehicle Accident / Property Damage / Physical Damage:</u>

    a. Follow the City's "*Accident Checklist*", attached in this Section.

2. <u>On Scene:</u>

    a. Photograph the scene, vehicles (multiple POV), license plates, street signs, and other relevant images.

    b. Obtain the police report number from responding Traffic Officer

    c. Obtain written statements from all involved employees, both drivers, property owners, and witnesses by using the form *"Voluntary Statement"*, attached in this Section.

3. <u>Off Scene:</u>

    a. Complete a vehicle accident report form entitled, *"Accident Report"*, attached in this Section.

        1. Fill-in blanks of report

        2. Write summary of accident in narrative Section

        3. Insert one or two photos of damage

        4. Attach Witness Statements

        5. If available attach police report any service requests or work orders, when available

    b. Create accident file on computer: Upload Photos, Scan Statements, SR, Copy of Report, Signed Employee Letter, Accident Review Board Letter, etc…any/all related documentation.

<u>E-mail completed Accident Report to</u>:

1. City Claims Investigator

2. FleetServices@Chattanooga.gov

3. Safety Manager

4. Department Head

    a. Determine preventability by using the preventability guide in this Section.

b. Issue preventability ruling letter to the Employee *(employee must return in five (5) calendar days*)

c. File the signed letter: Original to HR, Copy in Employee File, and Copy scanned to Electronic accident file.

d. If Employee appeals, hold Accident Review Board (ARB) based on policy.

<u>Safety Awards Program</u>

1. Each Department Head or designee may develop a uniformed Safety Awards Program to include the following;

    a. Design and development of a Safety Awards a program,

    b. Implementing and tracking the program, and

    c. Funding and awarding recipients of the program.

2. Eligibility for Safe Driver Award Programs must minimally incorporate both:

a. Employee vehicle/equipment preventable accident history.

b. Employee safety violations related to operation of a vehicle/equipment. *(i.e., cell phone violations, abuse violations, seatbelt violations, traffic citations, etc…)*

Each Department has an opportunity to demonstrate appreciation to City drivers/Operators who have performed jobs for a pre-determined period of time without a City vehicle accident. A Safety Awards Program is optional and may be created or removed upon the Department Head's decision.

Each Department Administrator or designee will be responsible for developing a uniformed Safe Driver Awards Program. The program must be reviewed and approved by the Central Safety Committee prior to implementation. All awards programs must be defined from Jan 1 to Dec 31.
Departments/Divisions are responsible for:

1. Outlining and proposing the safe driver awards criteria.

2. Obtaining approval for the safe driver awards from the Central Safety Committee.

3. Training New or Transferred Employees on the approved Safe Driver Awards program.

4. Preparing or having prepared a list of all eligible employees.

5. Funding the Safe Driver Awards program

Department Safe Driver Awards criteria shall at minimum include:

1. Preventable and Minor Preventable accidents incurred in the calendar year.

2. Seatbelt Violations incurred in the calendar year.

3. Cell Phone or Texting Violations incurred in the calendar year.

4. Moving Violations incurred in the calendar year.

5. Speeding or other Traffic convictions incurred in the calendar year.

F. ABUSIVE CONDUCT PREVENTION

The City of Chattanooga is firmly committed to a workplace free from abusive conduct. We strive to provide high quality services in an atmosphere of respect, collaboration, openness, safety and equality. All employees have the right to be treated with dignity and respect. All complaints of negative and inappropriate workplace behaviors will be taken seriously and followed through to resolution. Employees who file complaints will not suffer negative consequences for reporting others for inappropriate behavior. This policy applies to all employees of the City including interns. It does not apply to independent contractors, but other contract employees are included. This policy applies to any sponsored program, event or activity including, but not limited to, sponsored recreation programs and activities; and the performance by officers and employees of their employment related duties. The policy includes electronic communications by any employee.

Definition of Abusive Conduct

Abusive conduct includes acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, which can include but is not limited to:

1. Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;

2. Verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or

3. The sabotage or undermining of an employee's work performance in the workplace.

A single act generally will not constitute abusive conduct, unless such conduct is determined to be severe and egregious.

Abusive conduct does **not** include

1. Disciplinary procedures in accordance with adopted policies of the City.

2. Routine coaching and counseling, including feedback about and correction of work performance.

3. Reasonable work assignments, including shift, post, and overtime assignments.

4. Individual differences in styles of personal expression.

5. Passionate, loud expression with no intent to harm others.

6. Differences of opinion on work-related concerns.

7. The non-abusive exercise of managerial prerogative.

Responsibility of the City

Supervisors and others in positions of authority have a particular responsibility to ensure that healthy and appropriate behaviors are exhibited at all times and that complaints to the contrary are addressed in a timely manner. Supervisors will:

1. Provide a working environment as safe as possible by having preventative measures in place and by dealing immediately with threatening or potentially violent situations;
2. Provide good examples by treating all with courtesy and respect;

3. Ensure that all employees have access to and are aware of the abusive conduct prevention policy and explain the procedures to be followed if a complaint of inappropriate behavior at work is made;

4. Be vigilant for signs of inappropriate behaviors at work through observation and information seeking, and take action to resolve the behavior before it escalates; and

5. Respond promptly, sensitively and confidentially to all situations where abusive behavior is observed or alleged to have occurred.

Employee Responsibility (including witnesses)

Employees shall treat all other employees with dignity and respect. No employee shall engage in threatening, violent, intimidating or other abusive conduct or behaviors. Employees are expected to assume personal responsibility to promote fairness and equity in the workplace and report any incidents of abusive conduct in accordance with this policy. Employees should cooperate with preventative measures introduced by supervisors and recognize that a finding of unacceptable behaviors at work will be dealt with through appropriate disciplinary procedures.

Retaliation

Retaliation is a violation of this policy. Retaliation is any act of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or individuals exercising rights under this policy.

Training for Supervisors and Employees

All supervisors and employees are encouraged to undergo training on abusive conduct prevention conduct as directed by the City. Training should identify factors that contribute to a respectful workplace, familiarize participants with responsibilities under this policy, and provide steps to address an abusive conduct incident.

Complaint Process

Reporting

Employees

Any employee who feels he or she has been subjected to abusive conduct is encouraged to report the matter orally or in writing to a supervisor including his or her supervisor, division manager, appointing authority, Department Head, elected official, or the Human Resources Department by utilizing any of the reporting measures described in the Whistleblower Protection policy in this Guide.

Employees should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the representatives identified above.

Any employee seeking to file a complaint should ensure the complaint consists of precise details of each incident of abusive conduct including dates, times, locations and any witnesses and formal complaints should be documented in writing.

Witnesses

An employee who witnesses or is made aware of behavior that may satisfy the definition of abusive conduct should report any and all incidents.

Supervisors

Supervisors must timely report known incidents involving workplace abuse, intimidation, or violence to the Department Head and human resources office. Supervisors and Department Heads are required to take reasonable steps to protect the complainant, including, but not limited to, separation of employees involved. The person complained against will be notified that an allegation has been made against him or her and informed of the investigative

procedure.

Investigation

Investigations of abusive conduct shall be conducted as soon as practicable and in accordance with the policies and practices of the City. The objective of the investigation is to ascertain whether the behaviors complained of occurred, and therefore will include interviewing the complainant, accused, and witnesses with direct knowledge of the alleged behaviors. All interviews will be appropriately documented. The investigation will be conducted thoroughly, objectively, with sensitivity, and with due respect for all parties. The investigator will provide a copy of the investigative report to the Director of Human Resources and Department Head for further action. All affected parties will be informed of the investigation's outcome.

Corrective Action

In the event of a finding of abusive conduct, the City will take immediate and appropriate corrective action. Remedies may be determined by weighing the severity and frequency of the incidences of abusive conduct and in accordance with existing disciplinary policies of the City.

Any employee who engages in conduct that violates this policy or who encourages such conduct by others will be subject to corrective action. Such corrective action may include but is not limited to participation in counseling, training, and disciplinary action up to and including termination, or changes in job duties or location.

Supervisory personnel who allow abusive conduct to continue or fail to take appropriate action upon learning of such conduct will be subject to corrective action. Such corrective action may include but is not limited to participation in counseling, training, or disciplinary action up to and including termination, or changes in job duties or location.

While the City encourages all employees to raise any concern(s) under this policy and procedure, the City recognizes that intentional or malicious false allegations can have a serious effect on innocent people. Individuals falsely accusing another of violations of this policy will be disciplined in accordance with the disciplinary policy of the City.
Any employees exhibiting continuing emotional or physical effects from the incident in question should be informed of established employee assistance programs or other available resources.

When abusive conduct has been confirmed, the City will continue to keep the situation under review and may take additional corrective actions if necessary. Preventative measures may also be taken to reduce the reoccurrence of similar behavior or action.

Confidentiality

To the extent permitted by law, the City will maintain the confidentiality of each party involved in an abusive conduct investigation, complaint or charge, provided it does not interfere with the ability to investigate the allegations or to take corrective action. However, state law may prevent the City from maintaining confidentiality of public records. Therefore, the City cannot guarantee confidentiality.

SECTION VII – EMPLOYEE BENEFITS

A. HEALTH INSURANCE BENEFITS

Benefits may include medical, dental, vision, voluntary and flexible options. Employees are eligible for coverage on the first day of the month following thirty-one (31) days of employment. Dependents that may be covered include legal spouse and children up to age twenty-six (26). Supporting documentation is required before benefits can begin.

Each plan year begins on July first (1st) with the open enrollment period occurring in the month of May prior to the new plan year. Health plan options, benefit designs, eligibility rules, and premiums are subject to change each plan year. Informational meetings and other communications are available during the open enrollment period.

The Benefit plans offered by the City allow employees to pay their health insurance premiums on a pre-tax basis. When employees enroll in medical, dental, or vision insurance, the premiums are deducted from payroll checks before taxes according to IRS Section 125.

Employees may elect to establish a flexible spending account to pay for out-of-pocket expenses related to medical, dental, and vision care on a pre-tax basis. Similarly an employee may establish an account to pay for dependent care expenses. Employees make deposits to the accounts through a tax-free salary deduction. Expenses are reimbursed for incurred eligible medical and/or dependent care expenses through a claims process. Flexible spending arrangements are governed by the IRS and are subject to IRS regulations.

For more in-depth information regarding the offered benefits, please see the Summary Plan Description.

Retaining Health Insurance During Disability

Employees that have health insurance benefits and qualify to receive disability benefits under a disability insurance program offered by the City may continue to be covered by the health insurance while receiving disability benefits. Disabilities can be characterized as either short-term, long-term job-related, or long-term not job-related. The health insurance may be continued prior to retirement through payment of premiums.

If an employee is approved for short-term disability benefits , the payroll deduction premiums for the health insurance coverage and all enrolled benefits, except for short term disability coverage, must be paid to the City when due. The employee is responsible for paying all premiums due during the period of disability. Once the disability

ceases and the employee has returned to work, the payroll deduction for these premiums will resume.

For long-term job-related disabilities, the employee must terminate employment upon approval of the disability claim for benefits. The premium rate for the post-employment health insurance coverage will be the same as the rate charged to retirees with twenty-five (25) or more years of service for the coverage election. Premiums for the health insurance coverage must be paid to the City when due. Nonpayment of premium will result in termination of coverage. At the time the long-term disability benefits terminate, the health insurance coverage will also terminate. If the employee is subsequently rehired by the City, the employee will qualify for health insurance coverage as a new employee with the City.

For long-term not job-related disabilities, the employee must terminate employment upon approval of the disability claim for benefits. The health insurance coverage may only be continued if the employee has ten (10) or more years of service at the time of termination of employment. The premium rate for the post-employment health insurance coverage will be the same as the rate charged to retirees for the actual years of service for the coverage election. Premiums for the health insurance coverage must be paid to the City when due. Nonpayment of premium will result in termination of coverage. At the time the long term disability benefits terminate, the health insurance coverage will also terminate. If the employee is subsequently rehired by the City, the employee will qualify for health insurance coverage as a new employee with the City.

For both job related and non-job related long-term disabilities, health insurance coverage may be continued after termination of disability benefits only if the individual qualifies to receive health benefits in retirement as detailed in the Retiree Health Benefits Section B that follows.

Qualifying Events for Changes to Coverage

It is the employee's responsibility to notify the City if a significant qualifying event occurs that may result in a change in coverage. Employees must notify the City within thirty-one (31) days of experiencing a qualifying event and submit supporting documentation to be eligible to change coverage. Some events allow the employee to make changes to benefits including adding or dropping dependents, adding coverage or terminating coverage.

To make a change in pre-tax deductions that are allocated under the Section 125, employees must have a qualifying event. Under the Internal Revenue Service rules, employees may change his/her health insurance deductions (elections) during the year only after one (1) of the following qualifying events:

1. The employee has a change in family status (e.g. marriage, birth, death, legal separation, divorce, dependent child attaining the maximum age of coverage);

2. The employee's spouse loses coverage due to termination of employment;

3. The employee terminates employment or retires with the City;

4. The employee's spouse has a change in employment status which results in either acquiring or losing eligibility for health insurance coverage;

5. The employee receives a divorce/legal separation and are required under a court order to provide health insurance coverage for his/her eligible dependent children and/or legally separated spouse;

6. There is a significant change in the employee's or his/her spouse's health coverage which is attributable to the spouse's employment; or

7. Other reasons consistent with Federal Law such as Healthcare Reform.

Changes in pre-tax health insurance deductions that stem from any of these qualifying events must be made within thirty-one (31) days of the event.

The Consolidated Omnibus Budget Reconciliation Act (COBRA) provides the opportunity for eligible employees and their beneficiaries to continue health insurance coverage under the City's health plan when a "qualifying event" could result in the loss of eligibility. Qualifying events include resignation, termination of employment, death of an employee, reduction in hours, a leave of absence, divorce or legal separation, entitlement to Medicare, or where a dependent child no longer meets eligibility requirements.

B. RETIREE HEALTH BENEFITS

If eligibility criteria are met, retirees may continue healthcare benefit coverage into retirement, including dental coverage, providing that they were enrolled in these benefit programs immediately prior to retirement. The opportunity to continue healthcare benefits will be offered on a one-time basis to eligible terminating vested or retiring employees. The election to continue healthcare benefits after employment terminates must be filed in writing by the end of the last day of regular employment.

Eligibility for continuing healthcare benefits will be determined at the time of separation from service. The employee who is separating from service must be currently enrolled in the healthcare benefit program to be eligible for continuation of benefits at the time of separation. To be eligible, the employee must:

1. Have at least twenty-five (25) years of service; or

2. Have attained age sixty-two (62) and have ten (10) or more consecutive years of continuous service immediately prior to termination.

If the age and/or service criteria were met as of July 1, 2010, or for firefighters or police officers hired on or before March 31, 1986, then the employee will qualify to continue healthcare benefits during his or her lifetime. If the age and/or service criteria were met

after July 1, 2010, the employee will qualify to continue healthcare benefits only until Medicare eligibility is achieved. The covered spouses of eligible retirees may continue to receive medical benefits until they become eligible for Medicare or to age sixty-five (65), whichever occurs first, and covered dependent children may continue to receive medical benefits as long as they remain eligible under the terms of the insurance plan in effect.

The medical coverage offered until a retiree reaches Medicare eligibility is the same coverage offered to active employees. The premium for this coverage is determined based on the effective date of retirement or separation. The premium charged for post-retirement benefits for a retiree with at least twenty-five (25) years of service is approximately one and one-half times (1½) the premium rate payable by active employees. For those employees who are eligible to continue coverage for their lifetime, coverage options change upon reaching Medicare eligibility. At that time, a Medicare Advantage plan is offered to more efficiently provide benefits in conjunction with Medicare.

Premiums for the elected coverage will be paid as a deduction from the retiree's monthly pension payment. If the retiree's monthly pension benefit is not sufficient to cover premiums after income tax withholding, premium payment may be made *in advance* to the City when due on a monthly basis. The monthly premium due will be determined based on the number of years of service, the benefit plan selected, and any other criterion in effect that requires a rate variation to be recognized. Because the City is a self-insured entity, these rates will be changed annually at the time of the open enrollment period to reflect the total cost of the benefits to the City.

Employment After Retirement

When healthcare coverage is available through an employer after retirement from the City, the retired employee and the dependent spouse, if any, must purchase that coverage and the order of claims payment determination will be according to the following rules. Failure to apply for healthcare coverage through an employer when available will result in termination of post-retirement health care benefits.

1. If a retired employee is employed elsewhere after retirement and is eligible for healthcare benefits through the current employer, then the City post-retirement healthcare benefits will be considered secondary coverage to the coverage provided by the current employer.

2. If the retired employee's covered spouse is employed and eligible for healthcare benefits through the employer, then the spouse's healthcare plan will be treated as the primary coverage and the City post-retirement healthcare benefits will be treated as the secondary coverage.

3. If the covered spouse of a retired employee has family healthcare benefits, then that coverage will be considered primary for the spouse and covered dependents.

Medicare Eligible Retirees and Employees

The City requires every Medicare eligible retiree to apply for all Medicare benefits available, including, but not limited to Part A, Part B and any prescription drug benefits that may become available, when eligible to do so. The Medicare coverage requirement and the health insurance coverage offered by the City are both coverage providers or 'payers'. 'Coordination of benefits' rules will be applied to determine which payer pays claims first. The healthcare benefits provided by the City to a regular employee or retiree, and any healthcare benefits provided to the spouse of an employee or retiree will be paid according to the payer order determined by these rules. These rules will be applied regardless of whether the former employee and/or spouse apply for Medicare coverage.

Failure to apply for all appropriate Medicare coverage when eligible may result in termination of post-retirement health care benefits.

Death of Employee Prior to Retirement

In the event of death of an employee eligible to retire with health insurance benefits who has not yet retired, the spouse and any children covered under the medical insurance plan at the time of death may continue the healthcare benefits in which they were enrolled, including dental insurance benefits, at the time of the employee's death at the same premium rate that would have been available had the deceased employee retired immediately prior to death.

The right to continue healthcare benefits will terminate upon the remarriage of the covered spouse or when the age of covered children no longer meets the plan's eligibility requirement.
In the event of death of the covered spouse, the surviving covered children may continue healthcare benefits until their age no longer meets the plan's eligibility requirement.

If the deceased employee was not eligible to retire with health insurance benefits at the time of death, the spouse and covered children of the deceased employee will continue to be covered to the end of the month of death of the employee.

When an employee is killed in the line of duty or dies as a result of a service-connected disability or disease, the surviving spouse and covered children may elect to continue healthcare benefits at the same premium rate as that of a retiree with twenty- five (25) years of service by making application within thirty-one (31) days of the date of death.

C. HIPAA

The purpose of this policy is to inform employees of the City's administrative duties compliant with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and to outline the procedures entailed with managing protected health information.

Managing Protected Health Information

For the purposes of HIPAA, "health information" means information that identifies you and either relates to your physical or mental health condition, or relates to the payment of your health care expenses. The individually identifiable health information is known as "protected health information" ("PHI").

Any person not authorized to handle PHI should not receive or process such information unless approved by the individual and Human Resources. If an employee approaches a non-authorized person regarding PHI, the non-authorized person shall cease the conversation and direct the employee to an authorized representative.

Health-related information that is not considered protected health information defined by HIPAA law are employment records created by an employer in its employment capacity, as opposed to its health plan capacity. These include, but are not limited to, employment records that contain information created for the purpose of processing family medical leave request, drug screen programs, fitness for duty exams, workers' compensation, OSHA regulations, disability compliance, and education records covered by the Family Educational Rights and Privacy Act.

The City shall ensure separate treatment of PHI from other administrative functions, such as employee compensation and discipline.

The City shall take reasonable measures to limit the disclosure of PHI to the minimum amount necessary to accomplish the intended purpose of the disclosure.

If you believe that your privacy rights have been violated, you may file a complaint to the

Human Resources Director
101 E. 11th Street, Ste. 201
Chattanooga, TN. 37402
(423) 643-7200.

A thorough investigation will be conducted upon receiving the complaint. Prompt reporting will assist the City in maintaining compliance with HIPAA law. The City will keep the complaint confidential to the maximum extent possible, but effective investigation of allegations may involve disclosure to the accused individual and to other witnesses in order to gather all of the facts. The City will take appropriate remedial measures against violators of this policy, including termination, if an investigation establishes that corrective action is warranted. Retaliation in any form against an employee who makes a complaint is strictly prohibited.

D. LIFE INSURANCE

The City provides group life insurance to employees who are classified as Regular Fulltime and Elected. Coverage is effective on the first day of the month following one-hundred and

eighty (180) days of continuous employment with the City.

Eligible employees receive insurance equal to their annual base salary rounded up to the next one-thousand dollars ($1,000) to a maximum of fifty-thousand dollars ($50,000). The coverage includes accidental death and dismemberment coverage (AD&D) in an equal amount.

To be 'actively employed,' an employee:

1. Is reporting to work at the usual place of work during the regular working hours;

2. Is mentally and physically able to perform the usual and customary duties associated with their job or position;

3. Is working the regular number of hours at their regular place of business or at a place that the business requires; and

4. Has not received medical advice to refrain from working.

An employee who is absent due to injury, IOD, medical leave, or disablement is not considered actively employed. An employee who is absent from work due to business or parental leave is not considered absent from duties due to ill-health. If an employee is on an FMLA certified leave, the Employee Benefits office will determine the "actively employed" status of the employee. If an employee is not actively employed on the day coverage is scheduled to begin, coverage begins on the day the employee returns to work and is considered actively employed.

Employees are given the opportunity to voluntarily purchase supplemental life insurance benefits on an after tax basis for themselves and their dependents at the time of hire and at open enrollment each year. Enrollment may require evidence of insurability depending upon the amount of insurance requested and guaranteed issue limits. If the employee is not actively at work on the day coverage is scheduled to begin, coverage will begin on the day the employee returns to work and is considered actively employed. These benefits may be continued after the employee terminates employment through premium payments directly to the insurance company.

E. DISABILITY BENEFITS

Long Term Disability provides a financial benefit in the event of a total and permanent disability. The plan offered by the City is designed to provide an income of approximately sixty (60%) percent of the amount of pre-disability earnings.

Employees who participate in the General Pension Plan are eligible for coverage after six (6) months of employment. The Long Term Disability policy is designed to provide benefits for disabilities arising from injuries or from conditions that may or may not be job related. Payment for an approved disability may begin on the first day of the month following six

months of total and continuous disability. The summary plan description provides more information about policy provisions, the determination of benefit payment and the schedule of maximum durations of benefit. The amount of benefit is determined by several factors; however, for an approved disability, the payment will never be less than one-hundred dollars ($100) per month and will not exceed five-thousand dollars ($5,000) per month.

Employees who participate in the Fire and Police Pension Plan have access to long term disability benefits through that pension plan. Benefits are payable for disabilities arising from job related and non-job related causes. The amount of benefit varies based upon type of disability, earnings and years of service. Contact the Plan Administrator to determine the details of the coverage provided.

The City makes available to each employee eligible for benefits the opportunity to voluntarily participate in a short term disability plan. The plan provides benefit payments in the event of non-occupational disability. During the enrollment period, the employee participant will elect either a fifty percent (50%) or seventy percent (70%) income replacement. Benefit payments will not exceed two-thousand dollars ($2,000) per week. Disability payments for an approved disability due to illness or injury will begin on the 15th consecutive missed work day for up to twenty-four (24) weeks of total disability. The opportunity to enroll is provided at the time of hire and at open enrollment once per year. At the time of hire, employees are eligible to enroll in short term disability without submitting evidence of insurability. Otherwise, at open enrollment, new enrollees and participants increasing their coverage will be required to submit evidence of insurability. If the employee is not actively at work on the day coverage is scheduled to begin, coverage will begin on the day the employee returns to work and is considered actively employed.

F. TUITION ASSISTANCE PROGRAM (TAP)

The City has established a tuition assistance program to help eligible employees develop their skills and upgrade their performance. All permanent full-time employees who have completed a minimum of one (1) year of service are eligible to apply for tuition assistance.

The program provides tuition assistance for courses offered by City-approved institutions of learning, such as accredited colleges, universities, and secretarial or trade schools. Tuition assistance is also available for employees enrolled in courses leading to a GED high school equivalency diploma or special reading and writing programs where it can be demonstrated that such courses will improve the employee's job performance. Courses must be directly or reasonably related to the employee's present job or to a position into which the employee reasonably could progress. Courses must not interfere with the employee's job responsibilities and must be taken on the employee's own time.

Employees eligible for reimbursement from any other source, (e.g., a government-sponsored program or a scholarship) may seek tuition assistance only for costs not covered by the outside funding source.

Prior to enrollment, it is recommended that the employee discuss his/her education plans with the immediate supervisor, division head or Department Head. Employees should

receive approval from the Department Head or designee that the proposed course is consistent with the criteria for approval.

The employee is expected to make his/her own arrangements for taking courses and documented unsatisfactory job performance during enrollment could result in the employee forfeiting tuition assistance.

The employee must apply for and receive approval from the Department Head for tuition assistance for each new semester, quarter or term and prior to the beginning of the semester, quarter or term. Following approval of the application by the Department Head, a copy of the signed form should be given to the employee, a copy retained by the Department Head and the original sent to the Human Resource Department.

Tuition assistance amounts will be limited to one-thousand dollars ($1,000) per year per employee. The employee is responsible for verifying tuition costs prior to submitting request for tuition assistance. Assistance is for actual costs of tuition and registration fees only.

The employee must submit an official transcript showing that he/she received a grade of "C" or better for each course taken on a for-grade basis. Tuition assistance will not be provided for grades of lower than a "C" or a fail on a pass/fail basis. The employee must also submit an original receipt for tuition payment to the division head. Photocopies of the transcript will be made for the Department Head and Human Resources. The original transcript should be returned to the employee. The Department Head will approve reimbursement and authorize payment.

Tuition assistance is not available to employees during a leave of absence. If the employee leaves the City while attending school or within one (1) year of completing courses for which the City has paid, the City's share of the costs in the twelve (12) months preceding termination will be deducted from the final payment of salary, wages, bonuses, or accrued personal leave. If the amount of the final payment is not sufficient to cover the outstanding cost, the individual will be required to reimburse the City for the amount due at the time of termination.

G. RETIREMENT BENEFITS

The City provides both mandatory and optional methods of planning for retirement. Full time and certain part time civilian employees are required to participate in the General Pension Plan. All fully sworn employees of the Fire and Police Departments are required to participate in the Fire and Police Pension Plan.

The General Pension Plan

The General Pension Plan requires participants to contribute two percent (2%) of pensionable earnings each month toward a defined benefit program. The City contributes the remaining amount that is necessary to fund the benefits based on actuarial review and

funding requirements. At orientation, each new employee will receive a General Pension Plan booklet describing the features of the plan, including vesting requirements and benefit calculation methods.

The benefits payable are determined by formula based on a combination of age, final average earnings, and service credits of the employee. The employee is vested in the plan after sixty (60) service credits have been earned. One (1) service credit is earned for each month the employee works; no credits are earned in periods when the employee is on any kind of leave without pay.

If the contributions are withdrawn by the employee, there is no benefit payable at retirement.

The earnings, contributions, and service credits are recorded for each participant and a summary is available on an annual basis. Once vested, a participant may request a projection of their future benefit based on credited service earned to date.

A participant who reaches one of the following milestones may retire. A participant may continue to defer the retirement date and continue working.

1. Normal retirement at age sixty-two (62) with full benefits.

2. Immediate Early retirement beginning at age fifty-five (55) up to normal retirement age with a reduced benefit. The benefit reduction factor is two and one-half percent (2.5%) for each full year prior to age sixty-two (62). The early retirement benefit at age fifty-five (55) is eighty-two and one-half percent (82.5%) of the full benefit at age sixty-two (62).

3. 'Rule of 80' retirement allows the participant to retire with full benefits before age sixty-two(62) if the sum of age and accumulated service credits is eighty (80) or more.

The Basic Life Annuity available at retirement is a straight life annuity. The benefit payment is payable monthly for the lifetime of the participant. Five (5) alternative lifetime payment options for the participant are currently offered to provide payments to a beneficiary or contingent annuitant upon the death of the participant. If the participant has twenty-six (26) or more years of service, the participant has the option of electing a Deferred Retirement Option Plan (DROP) payment. It is an optional form of payment that provides a lump sum amount that may be taken in cash or transferred into a tax deferred account and a reduced amount of annuity payment. Lump sum amounts taken in cash are immediately taxed at twenty percent (20%) according to IRS rules. Lump sum amounts transferred into a tax deferred account are taxed only when a withdrawal is made. Please reference the Plan booklet for more information about the DROP and how benefit payments are determined.

If a participant terminates from service with sixty (60) or more service credits before meeting the eligibility age to retire, the participant is considered vested and may commence benefits when eligible at a future date based on their earnings and service record. A vested participant may remain vested, but also has the option to withdraw the contributions made

either as a lump sum or as a transfer to another tax qualified plan or employer's plan. If contributions to the plan are withdrawn, the City has no further liability for benefits.

The General Pension Plan is administered by Board of Trustees appointed by the Mayor. The assets of the plan are invested in a variety of funds or instruments by a number of investment managers. First Tennessee Bank oversees the fund transactions and ensures that the benefits are paid when due to the retirees.

The Fire and Police Pension Plan

The Chattanooga Fire & Police Pension Fund (CFPPF) was established in 1949 as a defined benefit plan to provide Police Officers and Firefighters with a secure, pre-defined monthly benefit upon retirement. The Fund also provides a safeguard for the immediate family in the event the Firefighter or Police Officer becomes disabled or dies.

The CFPPF receives contributions or funding from multiple sources:

- Members annually contribute a percentage of their base salary.
- City contributes the amount recommended by the actuary but no less than ten percent (10%) of the gross salaries of the Fire and Police Departments.
- Revenue from investments accounts for more than seventy percent (70%) of the fund's growth.
- Five dollars ($5.00) from every City court fee paid.
- Revenue generated by the sale of surplus property.

Payments to members are calculated based on a formula that takes into account years of service, earnings, and benefit levels referred to as Series. Please refer to the Summary Plan Description or contact the Pension Fund Office for more detailed information.

To be vested in the Pension Plan, members must have at least ten (10) years of pension credit service. Members who terminate service prior to vesting will receive a refund of their employee contributions to the Fund, without interest.

Members who earn more than twenty-five (25) years of pension credit service can elect a Deferred Retirement Option Plan (DROP) benefit upon retirement. The DROP is an optional form of an earned benefit that allows participants to receive a portion of their accrued retirement benefit earned during the DROP period as a lump sum withdrawal, in exchange for working longer than twenty-five (25) years. If the member declines the option to take the DROP benefit, the pension benefit is based on the total years of service rather than the monthly benefit that has been reduced for the DROP; typically twenty-five (25) years of service. Please refer to the Summary Plan Description for more information about the DROP, eligibility and how payments are determined.

The CFPPF is governed by an eight (8)-person Board: three (3) active Firefighters, three (3) active Police Officers, one (1) City general employee appointed by the Mayor and one (1) citizen appointed by the City Council.

For additional information regarding Chattanooga Fire and Police Pension Fund, please contact the Fund office at (423) 893-0500 or info@cfppf.org with any questions. You may also refer to the Fund website at www.cfppf.org.

Deferred Compensation Program

The City of Chattanooga also offers to all employees the opportunity to invest a portion of their earnings through payroll deduction into a deferred compensation plan for governments and municipalities, also known as a 457 plan. Contributions are made before tax and remain in a tax deferred status until withdrawals are made at the time of retirement. Employees currently have the choice of four (4) providers including Mass Mutual (The Hartford), Nationwide, VOYA (ING) and ICMA. Typical deferred compensation plans have the following features:

- On-site enrollment meetings at least annually.
- Individual retirement education sessions with a local representative.
- Educational materials for participants at all stages of the retirement planning.
- Quarterly Statements of Account and informative newsletters. Material is usually made available on line but some material may be provided by mail.
- Toll-free customer service number with transactional capability.
- A wide variety of investment choices professionally managed by some of the best-known money managers in the industry and spanning the risk/reward spectrum.
- A variety of withdrawal options at retirement.

For further information about deferred compensation plans, please contact the Finance Department for plan booklets and the contact information for the current plan representatives.

H. WELLNESS PROGRAM

The City's wellness program focuses on promoting the physical and mental wellness of employees, retirees and their families. The program includes a fitness center, an onsite pharmacy and an onsite healthcare center. The City may offer one (1) or more wellness incentive programs. For more specific information about these programs, please refer to the most recent Employee Benefits Guide.

Fitness Center

All City employees, elected officials, and retirees, regardless of insurance coverage, may utilize the fitness center. Dependents of an employee that are at least age eighteen (18) and are covered by the City's health insurance plan may use the fitness center. Dependents of an employee that are ages thirteen (13) through seventeen (17) and are covered by the City's health insurance may use the center only if accompanied by a parent.

Before using the facility, it is necessary to attend a fitness center orientation to review the equipment, guidelines for use and safety considerations.

Healthcare Center

City employees, retirees and their dependents age two (2) and older that are covered by the City's health insurance may utilize the healthcare center.

The healthcare center provides services similar to the care provided by a primary care physician at no cost. The center focuses on health and wellness by providing health assessments, health coaching, and programs to address health risks such as weight loss, smoking cessation and physical activity plans. All personal health information maintained at the center is protected and maintained in a HIPAA compliant manner. Health information will not be shared.

Pharmacy

City employees, retirees and their dependents that are covered by the City's health insurance may utilize the pharmacy for prescribed medications. The over-the-counter medications and other products are available for sale to all City patrons.

Prescriptions from a current pharmacy may be transferred to the onsite pharmacy. Medications prescribed by physician at the onsite healthcare center may be filled at the onsite pharmacy.

I. EMPLOYEE ASSISTANCE PROGRAM (EAP)

The employee assistance program (EAP) is designed to help all regular full-time and elected City employees and their family members cope with problems before they become unmanageable. The EAP provides employees and their household members with confidential access to assistance and resources online twenty-four (24) hours per day, seven (7) days per week. The EAP provides short term counseling and support on many issues including depression, grief, legal issues, alcohol/drug abuse, financial pressures, identity theft, stress, anxiety, and many more.

The EAP is strictly confidential and is designed to safeguard an employee's privacy and rights. Contacts to and information given to the EAP counselor may be released to the City of Chattanooga only if requested by the employee in writing. There is no cost for an employee to consult with an EAP counselor. If further counseling is necessary, the EAP counselor will outline community and private services available. The counselor will also let employees know whether any costs associated with private services may be covered by their health insurance plan. Costs that are not covered are the responsibility of the employee.

Information about the program is provided through various communication methods. Contact the Employee Benefits Guide or Human Resources for vendor phone number or access information.

SECTION VIII – DRUG AND ALCOHOL TESTING

A. DRUG AND ALCOHOL TESTING POLICY FOR COMMERCIAL MOTOR VEHICLE DRIVERS (CDL)

The City of Chattanooga ("City') recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the City to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. When substance abusing employees operate vehicles on public roads, their substance abuse can lead to property damage, injury and loss of life. Employees of the City are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility. Because the workplace affects such a large part of our society, and destructive behaviors in the workplace have wide-ranging consequences, the Federal Drug-Free Workplace Act of 1988 was enacted to mandate the implementation of a "drug-free workplace" for workplaces which were covered by the Act. In 1991, Congress passed the Omnibus Transportation Employee Testing Act, in which the Department of Transportation was required to implement the drug and alcohol testing of safety-sensitive transportation employees.

This policy complies with the Federal Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); United States Department of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are: pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

The specific purpose of this drug and alcohol testing policy is to establish a program designed to help prevent accidents and injuries resulting from the use of controlled substances and the abuse of alcohol and illegal drugs by drivers of specified commercial motor vehicles. The general purpose of this policy, however, is to foster a safe and healthy work environment which produces beneficial results for employees and their families, as well as for the City. This purpose is achieved through the implementation of a drug and alcohol testing program for the covered drivers as a deterrent to abuse. The goal of the policy is to balance the City's respect for the employee's privacy with the need to achieve and maintain a safe and productive work environment. With these goals in mind, the City has established this policy to conform to the requirements of the U.S. Department of

Transportation, Federal Motor Carrier Safety Administration Regulations contained in 49 CFR, Parts 40 and 382.

Administrative Provisions

This policy summarizes and puts into a concise format the provisions of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration Regulations, contained in 49 CFR, Parts 40 and 382 ("DOT Regulations"), but it is intended in no way to contradict or impose less stringent requirements than the referenced Regulations.

As provided for in 49 CFR, Parts 40 and 382, this policy applies to, covers, and imposes drug and alcohol testing requirements on "Safety-Sensitive" City employees. The City is responsible for meeting all applicable requirements and procedures of these Parts, and the policy administered on behalf of the City by the Designated Employer Representative ("DER"), as defined in the Regulations and below.

Drug and alcohol testing of a Safety-Sensitive employee mandated by this policy and by the DOT Regulations are to be completely separate from any "non-DOT" drug and alcohol testing performed by the City or through the City's non-DOT drug testing program. The DOT tests of a Safety-Sensitive driver required by this policy and the DOT Regulations are to take priority and must be conducted and completed before a non-DOT test is begun. Any excess urine from a driver's DOT test must be discarded and may not be used for any non-DOT test. No other testing (e.g., medical, DNA, or other drugs or specimen) may be performed on urine or breath incidental to a DOT drug or alcohol test. (The single exception to this restriction is when a DOT drug test is conducted in conjunction with a DOT physical examination. In this situation, any urine remaining in the collection container, after the drug test urine specimens have been sealed into the separate bottles, may be used for the needed glucose test associated with the DOT physical examination). The results of the DOT test may not be changed or disregarded based on the results of a non-DOT test. Notwithstanding anything contained in this policy to the contrary, Safety-Sensitive employees mandated by this program by DOT Regulations may be tested as authorized by the Drug and Alcohol Testing Policy for Non-Commercial Driver's License Employees if the circumstances giving rise to such testing do not arise from the employee's operation of a Commercial Motor Vehicle.

Definitions

The following definitions shall apply:

Accident: An occurrence involving a Commercial Motor Vehicle operating on a public road in commerce, which requires a Commercial Driver's License, if it results in:

1. A safety-sensitive employee who was performing a safety-sensitive function(s) with respect to the vehicle, if the accident involved the loss of human life; or

2. A safety-sensitive employee who received a citation under state or local law for a moving traffic violation arising from the accident, if the accident involved: (1)

bodily injury to any person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or (2) one or more motor vehicles incurring disabling property damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Adulterated or Substituted Specimen: A specimen that has been altered or substituted as evidenced by test results showing either a substance that does contain normal constituents for that type of specimen or showing an abnormal concentration of an endogenous substance.

Chain of Custody*:* The methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing accountability at each stage in the handling, testing, and storing specimens and reporting test results.

City: The City, as used in this policy, is the City of Chattanooga and its departments and governmental sub-divisions.

Commercial Motor Vehicle: This policy pertains to commercial motor vehicles (or combinations of motor vehicles) used in commerce to transport property or passengers which meet the following conditions:

- the motor vehicle has a gross combination weight rating of twenty-six thousand and one (26,001) or more pounds, inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand (10,000) pounds;

- the motor vehicle has a gross weight rating of twenty-six thousand and one (26,001) or more pounds;

- the motor vehicle is designed to transport sixteen (16) or more passengers, including the driver; or,

- the motor vehicle is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded.

Commercial Driver's License: The applicable license is a license issued by a State or other jurisdiction to an individual which authorizes the individual to operate a class of commercial motor vehicles.

Designated Employer Representative ("DER"): The Designated Employer Representative ("DER") is the employee of the City who implements, administers, and enforces this policy on behalf of the City and in compliance with 49 CFR, Parts 40 and 382. The "DER" is authorized to take immediate action(s) to remove safety-sensitive employees (drivers) from safety-sensitive functions and to make required decisions in the testing and evaluation process. The "DER" receives test results and other communications for the City, consistent with the

requirements of the applicable regulations.

Dilute Specimen: A specimen with creatinine and specific gravity values that is lower than expected from human urine.

Disabling Property Damage: Disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

DOT: "DOT" means the U.S. Department of Transportation; specifically, the Federal Motor Carrier Safety Administration within the Department.

Driver: Any person who operates a commercial motor vehicle.

Drug: Any drug subject to testing pursuant to the Tennessee Drug Control Act of 1989, as amended.

Drug Test or Test: Any chemical, biological, or physical instrumental analysis administered by a certified laboratory for the purpose of determining the presence or absence of a drug or its metabolites or alcohol pursuant to regulations governing drugs or alcohol testing adopted by the United States Department of Transportation.

Employee: Any person who works for salary, wages, or other remuneration for City.

Employee Assistance Program: An established program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug or alcohol abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and follow-up services for employees who participate in the program or require monitoring after returning to work.

Medical Review Officer or MRO: A licensed physician, employed with or contracted by City, who has knowledge of substance abuse disorders, laboratory testing procedures and chain of custody collection procedures; who verifies positive, confirmed test results; and who has the necessary medical training to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information.

Safety-Sensitive Employees: All employees who possess a Commercial Driver's License ("CDL"), and who are qualified to operate a City motor vehicle.

Safety-Sensitive Function: The time a driver begins to work or is required to be in readiness to work, until the time he or she is relieved from work and all responsibility for performing work, has lapsed. This safety-sensitive function shall include the time the driver is:

1. Waiting to be dispatched;

2. Inspecting, servicing, or conditioning the commercial motor vehicle;

3. Driving a commercial motor vehicle;

4. In or upon any commercial motor vehicle;

5. Loading, unloading, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle or in giving or receiving receipts for shipments loaded or unloaded; and/or

6. Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Employee Conduct

Drivers to whom this policy applies and who are covered by the applicable regulations are prohibited from using or possessing controlled and illegal drugs or alcohol while on duty. No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while using any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the employee that the substance will not adversely affect the employee's ability to perform a safety-sensitive function.

No driver shall perform safety-sensitive functions within four (4) hours of using alcohol. No driver shall perform safety-sensitive functions if the result of a drug and/or alcohol test is positive. (Refer to Return-to-Duty Testing below)

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of two tenths (0.02) or greater.

A driver involved in an accident involving a commercial motor vehicle which requires a post-accident test is prohibited from using alcohol until after a post-accident test is performed, or eight (8) hours have elapsed since the accident, whichever comes first. (Refer to Post-Accident Testing, below, for the criteria under which a Post-Accident Test is required).

Refusal to submit to a required drug or alcohol test will be cause for disciplinary action, up to and including termination. A refusal to test includes:

1. Failure to appear for the required test (except for a pre-employment test) within a reasonable time, as determined by the employer, consistent with the "Federal Motor Carrier Administration" Regulations, after being directed to do so by the employer or by the employer's contracted "Service Agent."

2. Failure to remain at the testing site until the testing process is complete. (An applicant who leaves the testing site before a pre-employment test begins is not deemed to have "refused to test").

3. Failure to provide a urine specimen for any drug test required by DOT Regulations, or failure to provide an adequate amount of breath or saliva for an alcohol test as required by DOT Regulations.

4. In the case of a "directly observed" or "monitored" collection in a drug test, a failure to permit the observation or monitoring of the covered employee's providing the specimen.

5. Failure to provide a sufficient amount of urine or sufficient breath specimen when directed, and when it has been determined through a required medical evaluation that there was no adequate medical explanation for the failure.

6. Failure or declining to take an additional test the employer or collector has directed the covered employee to take.

7. Failure to undergo a medical examination or evaluation, as directed by the Medical Review Officer (MRO) as part of the verification process, or as directed by the DER.

8. Failure to sign the certification at step two (2)of the Alcohol Testing form.

9. Failure to cooperate with any part of the testing process (e.g., refusing to empty pockets when directed to do so by the specimen collector; behaving in a confrontational way that disrupts the collection process; etc.).

10. Receipt of the report from and/or notification by the MRO and/or the collection site as having a verified adulterated or substituted test result.

Drug and Alcohol Testing Program

DOT drug tests are conducted only using urine specimens. The DOT prescribed testing panel promulgated by the U.S. Department of Health and Human Services, designated as the "Health and Human Services 5" (HHS-5) panel. The urine specimens are analyzed for the following drugs/drug metabolites:

1. Marijuana metabolites/THC

2. Cocaine metabolites

3. Amphetamines (including methamphetamines)/MDMA/MDA/MDEA (including Ecstasy)

4. Opiates (including codeine, heroin, morphine)

5. Phencyclidine (PCP)

Although the panel is designated as a five (5)drug panel, laboratories may, because of various drug categories and substances making up the panel, report the test results showing seven (7)drugs.

Prescription medicine and "Over-the-Counter" (OTC) drugs may "show up" in the testing process, and these may cause a drug test to be "positive" for a drug category; however, after review by the MRO, legitimate use of these drugs will not produce a final positive test result issued by the MRO. Prescription medicine and "OTC" drugs are considered by the MRO as legitimate and being used legitimately when the following minimum standards apply:

1. The medicine must be prescribed to you by a licensed physician, such as the covered employee's personal doctor.

2. The treating/prescribing physician has made a good faith judgment that the use of the substance at the prescribed or authorized dosage level is consistent with the safe performance of the safety-sensitive function.

3. The substance is used at the dosage prescribed or authorized.

4. If more than one physician is providing treatment to the CDL safety-sensitive employee, it must be shown that at least one of the treating doctors has been informed of all prescribed and authorized medications and has determined that the use of the medications is consistent with the safe performance of the safety-sensitive function.

5. Taking the prescription medication and performing the Safety-Sensitive Function is not prohibited by DOT Regulations.

Safety-sensitive employees are subject to drug and alcohol testing in the following situations:

Pre-Employment: A "new hire" is required to submit to a drug test. Only after a negative drug test result is issued by the MRO may a new hire begin driving in a safety-sensitive function. This requirement also applies to current employees who are transferring from a non-safety-sensitive function into a position which is safety-sensitive.

Random: Safety-sensitive employees are subject to unannounced random drug and alcohol testing. Just prior to the testing event, the driver is notified of his/her selection and is provided enough time to stop performing his/her safety-sensitive function and report to the testing location. (Failure to present at the testing location or interfering with the testing process can be considered a refusal-to-test). Under DOT regulations, random testing must be generated using a truly random selection process, with each safety-sensitive employee having an equal chance to be selected and tested at all times. Random alcohol tests can only be performed while the driver is performing safety-sensitive functions.

Post-Accident

Alcohol Testing

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each of City's surviving drivers shall be tested for controlled substances who meets any one of the enumerated conditions below:

a. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

b. Who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident if the accident involved:

    1. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or

    2. One or more motor vehicles incurring Disabling Property Damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Drug Testing

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each of City's surviving drivers shall be tested for controlled substances who meets any one of the enumerated conditions below:

a. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or

b. Who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident if the accident involved:

    1. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or

    2. One or more motor vehicles incurring disabling droperty damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

The safety-sensitive employee(s) must remain available for the required testing and may not refuse to be tested.

Reasonable Suspicion

All safety-sensitive employees will be subject to a reasonable suspicion drug and alcohol test

when there are reasons to believe that the employee has used prohibited drug and/or engaged in alcohol misuse. An employer's determination of reasonable suspicion will be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee, including without limitation the following:

1. The presence of recognizable physical symptoms of drug or alcohol use, e.g., slurred speech, bloodshot eyes, alcohol on breath, inability to stand or to walk a straight line;

2. Indications of the chronic and withdrawal effects of controlled substances;

3. Direct knowledge or observation of drug or alcohol use or possession, or possession of drug paraphernalia; and/or

4. Aberrant conduct or behavior that is so unusual that it warrants summoning a supervisor or other assistance.

Reasonable suspicion drug/alcohol test referrals will only be made by a supervisor or other designated individual with employee monitoring and assignment responsibilities who has received "reasonable suspicion training" in accordance with Federal Motor Carrier Safety Administration regulations. The training ensures that supervisors or other designated employees with similar responsibilities have the skills and knowledge to objectively detect the signs and symptoms of drug and alcohol use in safety-sensitive employees.

A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive function. A reasonable suspicion drug test can be performed any time the safety-sensitive employee is on duty.

The City shall be responsible for transporting the safety-sensitive employee to the testing site. Transport shall include travel to and from the location and to the individual's residence, as they should not be permitted to work when they may be under the influence of a drug or alcohol.

Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. An employee who refuses an instruction to submit to a reasonable suspicion drug/alcohol test shall not be permitted to finish his or her shift and will be subject to other employment consequences. Failure to submit to a reasonable suspicion test is prohibited conduct (test refusal), the consequences of which are outlined in Section V (5): Consequences of a Positive Drug/Alcohol Test; Refusal to Test; Adulterated or Substituted Drug Test or Violations of a DOT Agency Specific Drug and Alcohol Rule.

A written record of the observations that led to a reasonable suspicion drug/alcohol test shall be prepared and signed by the supervisory individual making the observation. This record shall be prepared prior to the release of the test results. The written record shall be submitted to the Director of the Human Resources Department.

Following a positive drug and/or alcohol test result, a pre-disciplinary meeting will be arranged as soon as possible by the Department Head. The safety-sensitive employee is removed from duty without pay and will be advised by the supervisor the purpose of the meeting and that they are entitled to have representation present.

If the safety-sensitive employee is alleged to have violated this policy, he or she will be advised of the following:

1. The employee will be subjected to disciplinary action up to and including termination for violation of the drug and alcohol policy;

2. If the employee retains employment with the City, the employee may be referred to a Substance Abuse Professional (SAP) for an assessment and evaluation. The SAP will evaluate each employee to determine what assistance the employee needs in resolving problems associated with prohibited drug use and/or alcohol misuse. Upon recommendation of the SAP, the employee must pass the "return to duty" drug and/or alcohol test. A positive test result will be cause for termination with the City.

3. The employee will be required to provide a check for the cost of the drug and/or alcohol test made payable to the third party administrator to cover the expense of the return to duty test.

4. The employee shall be subject to follow-up testing. A positive test result will be cause for termination with the City.

5. The employee will be required to sign release of information forms by Employee Assistance Program to specified individuals with the City and third party administrator.

In addition to the penalties imposed by DOT, a safety-sensitive employee whose reasonable suspicion test is positive, or who fails or refuses to submit to a reasonable suspicion test when directed to do so by the City, will be subject to disciplinary action, up to and including termination. An employee with a dilute negative test resulting from a dilute specimen will be required to retest.

The DER will contact the supervisor when the employee has passed the return to duty drug and alcohol test to set the date the employee can return to work.

SAPs are "gatekeepers" to the re-entry program when a safety-sensitive employee can return to duty. SAPs are required to have a specific background and specified licensing credentials, which include clinical experience in diagnosis and treatment of substance abuse-related disorders. SAPs must be knowledgeable about the SAP functions as it relates to employer interests in the safety-sensitive duties. SAPs must complete qualification training and fulfill obligations for continuing education courses. SAPs make recommendations to the employer about an employee's readiness to perform safety-sensitive duties. SAPs make return-to-duty recommendations according to their professional and ethical standards, as well as to DOT regulations. Note: Only specifically identified counselors are qualified as SAPs; not all

counselors, social workers, or other behavioral professionals meet the requirements to act as a SAP within the scope of the DOT Regulations. SAPs may make recommendations for a client to submit to treatment, but the same person cannot act as the SAP and as the treatment provider.

Return to Duty

If a driver has violated the prohibited drug and/or alcohol rules, a drug and/or alcohol test will be required before returning to the safety-sensitive function. (This provision in no way assures the employee of a right to continued employment by the City. The City retains the option to terminate an employee who fails to pass any required drug and/or alcohol test, in conformance with City Human Resources policies). The Return-to-Duty test will be directed by the City's DER upon the recommendation of the SAP who has evaluated the safety-sensitive employee following a positive drug and/or alcohol test, and following any recommended treatment.

Recertification

At the time that safety sensitive employees receive their medical recertification, drug and alcohol testing will be performed.

Follow-Up

The driver who returns to duty will be required to submit to "follow-up" testing. The SAP who has evaluated the driver will make the determination as to the number of tests and the length of time over which testing will be required. The minimum number of tests is at least 6 tests during the first year after returning to duty. The testing may be required to continue for up to 5 years. The SAP will determine for what substances (i.e., drugs, alcohol, or both) the employee will be tested. The City will be responsible for ensuring that follow-up testing is conducted and completed. Follow-up testing is in addition to all other DOT required testing. (The driver remains in the random pool and is subject to random testing at all times).

The drug testing process consists of three (3) components:

1. The collection

During the collection process, a urine specimen collector will:

a. Verify the identity of the donor using a current valid photo ID (such as a driver's license), a passport, an employer-issued picture ID, etc.).

b. Create a secure collection site by:

    1. Restricting access to the site to only those being tested;

    2. Securing water sources and placing blue dye in any standing water; and

3. Removing or securing all cleaning products/fluids at the collection site.

c. Afford the donor privacy to provide a urine specimen. (The exception to this rule will generally surround issues of attempted adulteration or substitution of a specimen or any situation where general questions of validity arise, like an unusual temperature or odor of the specimen.

d. Ask the donor to remove any unnecessary garments and empty pockets. (The donor may retain his/her wallet).

e. Instruct the donor to wash and dry his/her hands.

f. Select, or have the donor select, a sealed collection kit and open it in the donor's presence.

g. Request the donor to provide a urine specimen into a collection container. (A minimum of forty-five (45) mL will be required from a single void).

h. Check the temperature and color of the specimen which has been provided.

i. In the donor's presence, the specimen collector will pour the urine into two separate bottles ("A" or the primary sample and "B" the second bottle of the split sample collection); seal both bottles with tamper-evident tape; and ask the donor to sign the seals after they have been placed on the bottles.

j. Neither the donor nor the collector should let the specimen out of their sight until the urine has been poured into the two separate bottles, the seals have been applied, and the donor has initialed the bottle seals. (NOTE: Bottles seals are to be initialed by the donor AFTER the seals are in place on the bottles. Do NOT initial the seals while attached to the Custody and Control Form ("CCF").

k. Ask the donor to provide his/her name, date of birth, and both a daytime and evening phone number on the MRO copy (Copy 2) of the CCF. (Phone numbers are needed to permit the MRO to contact the donor if there are questions about the test result).

l. Complete the necessary documentation on the laboratory copy of the CCF.

m. Give the donor the employee copy of the CCF.

n. Package and ship both sealed bottles and the completed laboratory copy of the CCF to the laboratory.

o. Provide the MRO copy of the CCF to the MRO and the employer copy of the CCF to the employer.

If the donor is unable or fails to provide a minimum of forty five (45) mL of urine on the

first attempt, the time will be noted and the "shy bladder" protocol will be started. In the shy bladder protocol:

1. The donor will be required to remain in the testing area – under the supervision of the collection site personnel or a City supervisor or other representative of the City. (Leaving the testing area during the shy bladder protocol may be considered a refusal to test).

2. The donor will be urged to drink up to forty (40) oz. of fluid, distributed in increments reasonably spread over a period of up to three (3) hours.

3. The donor will be permitted to provide a new specimen or specimens (into a new container) at any time within the three (3) hour time period.

4. If the donor does not provide a sufficient specimen within the three (3) hour period, the donor must obtain a medical evaluation within 5 days to determine if there is an acceptable medical reason for not being able to provide a specimen. The physical examination is scheduled after the City's DER consults with the MRO. The physician chosen to complete the evaluation must have expertise in the medical issues raised and be acceptable to the MRO. If it is determined that there is no legitimate physiological or pre-existing psychological reason for not providing the urine specimen, it will be considered a refusal to test.

The specimen collection personnel will meet the training and performance standards as set out and required by DOT.

2. <u>Observed Collections</u>

Consistent with 49 CFR Part 40 and 382, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:

a. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the City that there was not an adequate medical explanation for the result; or

b. The MRO reports to the City that the original positive, adulterated, or substituted test result had to be canceled because the test of the split specimen could not be performed; or

c. The collector observes materials brought to the collection site or the employees conduct clearly indicates an attempt to tamper with a specimen; or

d. The temperature on the original specimen was out of range.

Additionally, City will direct a collection under direct observation of an employee if the drug test is a return-to-duty or a follow-up test.

3. <u>Testing at the Laboratory</u>

At the laboratory, the staff will:

a. Determine if "flaws" exist. "Flaws are divided into "Correctable Flaws" and "Fatal Flaws." Correctable flaws are those where minor omissions are noted that can be corrected by the specimen collector through the preparation and execution of an "affidavit of correction." Fatal flaws involve those that cannot be corrected (e.g., insufficient urine being provided or the urine leaking during transit; the laboratory copy of the CCF not accompanying the specimen to the lab or being illegible; the bar code on the bottles not matching the bar code on the CCF; etc.) If a fatal flaw exists, the specimen will be rejected for testing.

b. Open only the "A" bottle and conduct the screening test. Screening tests that screen positive will be analyzed again using a completely different confirmatory testing methodology (the "GC/MS" test where the molecular makeup of any drugs in the specimen can be identified) to confirm the initial result.

c. If the result is positive, adulterated, or substituted, the MRO will conduct an interview (usually by telephone) with the donor to determine if there is a legitimate medical reason for the result. If a legitimate reason is established, the MRO will report the result to the DER as negative. If a legitimate medical reason cannot be established for a positive test, the MRO will report the result as positive. For an adulterated or substituted test resulting from an Adulterated or Substituted Specimen, if a legitimate medical reason cannot be established for the result, the MRO will report the result as a refusal. If the MRO cannot reach the donor by telephone within twenty-four (24) hours of receipt of the test result from the laboratory, the MRO will ask the DER to assist in contacting the donor to notify him/her to contact the MRO. If the MRO fails to be able to contact the donor, or if the donor fails to provide the MRO with legitimate medical documentation to validate the medical reason for the result, the result will be issued as positive or as a refusal, depending on the laboratory report.

d. Inform the donor that he/she has seventy-two (72) hours from the time of the verified result to request to have the "B" bottle of the split specimen collection sent to a second, totally independent certified laboratory for analysis for the same substance or condition that was found in the "A" bottle. There is an additional cost associated with this "challenge" test which the donor may be held responsible by the City, although the inability to afford this challenge test cannot be cause for the test not being performed.

Under DOT Regulations, MROs are licensed physicians with knowledge and clinical experience in substance abuse disorders. MROs must complete qualification training courses and fulfill the obligations for continuing education courses; they must be certified by one of the national Medical Review Officer professional organizations. MROs serve as independent, impartial "gatekeepers" to the accuracy and integrity of the DOT drug testing program.

The alcohol test involves:

1. Conducting an alcohol screening test. A Breath Alcohol Technician (BAT) or a Screening Test Technician (STT), using only a DOT approved instrument or device will:

    a. Establish a private testing area to prevent unauthorized people from hearing or seeing the testing process;

    b. Require the person being tested to sign step two (2) of the Alcohol Testing Form;

    c. Perform a screening test and show the person being tested the test result. If the screening test is an alcohol concentration of less than two hundredths (0.02), then no further testing is authorized and there is no DOT action to be taken. The technician will document the result on the form and provide the person being tested and the City copies of the form.

2. Conducting an alcohol confirmatory test. If the screening test result is two hundredths (0.02) or greater, a confirmatory test will be required as follows:

    a. The confirmatory test can only be performed by a BAT using an Evidential Breath Testing (EBT) device.

    b. The BAT will wait at least fifteen (15) minutes, but no more than thirty (30) minutes, before conducting the confirmatory test.

    c. The confirmatory test will require the use of a new EBT mouthpiece.

    d. Perform an "air blank" on the EBT device to ensure that there was no residual alcohol in the EBT or in the air around it.

    e. Display the test result to the person being tested on the EBT and on the print-out from the EBT.

    f. Document the confirmation test result on the form; provide the person being tested and the employer copies of the form.

    g. Report any confirmed result of two hundredths (0.02) or greater immediately to the City DER.

If after several attempts, the person being tested is unable to provide an adequate amount of breath for a breath alcohol test, the testing will be stopped. The person being tested will be instructed to submit to a medical evaluation to determine if there is an acceptable medical reason for the employee who attempted the breath alcohol test not providing the sample. If it is determined that there was no legitimate physiological or psychological reason, the test will be treated as a refusal to test.

Consequences of Positive Drug/Alcohol tests; Refusals to Test; Adulterated or Substituted Drug Test or Violations of a DOT Agency Specific Drug and Alcohol Rule

No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.02 or greater. If, as a result of an alcohol test conducted in conformance with DOT Alcohol Testing Regulations, Alcohol concentrations of two hundredths (0.02) to thirty-nine thousandths (0.039%) are indicated, then the driver is restricted in the performance of his/her safety-sensitive functions and will be removed from their duties without pay for a period of twenty-four (24) hours. Alcohol concentrations of thirty-nine thousandths (0.039%) or higher shall be cause for being removed from his/her safety-sensitive functions and being subjected to disciplinary actions, up to and including termination of employment, pursuant to DOT Regulations and the City's Drug and Alcohol Policy.

Any safety-sensitive employee who has a verified (a) positive drug test; (b) adulterated or substituted drug test resulting from an adulterated or substituted specimen; (c) alcohol test result of thirty-nine thousandths (0.039%) or higher, refuses to test or violates a DOT agency specific drug and alcohol rule will be immediately removed from his/her safety-sensitive position and will be advised of the following:

1. The employee will be subjected to disciplinary action up to and including termination for violation of the drug and alcohol policy;

2. If the employee retains employment with the City, the employee may be referred to a SAP for an assessment and evaluation. The SAP will evaluate each employee to determine what assistance the employee needs in resolving problems associated with prohibited drug use and/or alcohol misuse. Upon recommendation of the SAP, the employee must pass the "return to duty" drug and/or alcohol test. A positive test result will be cause for termination with the City.

3. The employee will be required to provide a check for the cost of the drug and/or alcohol test made payable to the third party administrator to cover the expense of the return to duty test.

4. The employee shall be subject to follow-up testing. A positive test result will be cause for termination with the City.

5. The employee will be required to sign release of information forms by Employee Assistance Program to specified individuals with the City and third party administrator.

In addition to the penalties imposed by DOT, a safety-sensitive employee whose reasonable suspicion test is positive, or who fails or refuses to submit to a reasonable suspicion test when directed to do so by the City, will be subject to disciplinary action, up to and including termination. An employee with a dilute negative test resulting from a dilute specimen will be required to retest.

The DER will contact the supervisor when the employee has passed the return to duty drug and alcohol test to set the date the employee can return to work.

SAPs are "gatekeepers" to the re-entry program when a safety-sensitive employee can return to duty. SAPs are required to have a specific background and specified licensing credentials, which include clinical experience in diagnosis and treatment of substance abuse-related disorders. SAPs must be knowledgeable about the SAP functions as it related to employer interests in the safety-sensitive duties. SAPs must complete qualification training and fulfill obligations for continuing education courses. SAPs make recommendations to the employer about an employee's readiness to perform safety-sensitive duties. SAPs make return-to-duty recommendations according to their professional and ethical standards, as well as to DOT regulations. Note: Only specifically identified counselors are qualified as SAPs; not all counselors, social workers, or other behavioral professionals meet the requirements to act as a SAP within the scope of the DOT regulations. SAPs may make recommendations for a client to submit to treatment, but the same person cannot act as the SAP and as the treatment provider.

Subsequent Employment

Drug and alcohol testing results follow a driver to a new employer if the new employer is regulated by a DOT agency. Employers are required by law to provide driver drug and alcohol testing history to subsequent employers. This is to ensure that a substance abusing employee completes the return-to-duty process and is being tested according to the prescribed follow-up testing plan. MROs are required, in addition to the DOT requirements, to report substance abusing employee's positive (including adulterated, refusals-to-test, etc.) drug screens to State (and, eventually, to a federal) database. Employers are required to report employees' positive alcohol test results to State (and, eventually to a federal) database. Employers are required to check with state and, when the federal nationwide database is implemented, with the federal database for clearance of drivers prior to the drivers being employed for Safety-Sensitive positions.

Responsibility of Employee to Refrain from Safety-Sensitive Functions

The drug and alcohol testing program is implemented as a deterrent to substance abuse, but it is the responsibility of a driver who has a drug or alcohol abuse problem to refrain from safety-sensitive functions; the driver must not continue to perform his/her safety-sensitive functions. While the driver may have his/her abuse problem identified at some point by a random or reasonable suspicion/for cause drug and/or alcohol test, the driver with a substance abuse issue must assume the responsibility of not performing safety-sensitive functions. Drivers with drug and/or alcohol abuse issues are encouraged to seek help, but seeking help as a result of a random or reasonable suspicion/for cause drug and/or alcohol test being announced is not viewed as the appropriate time for a confession and request for help. The City has this information available on SAPs and treatment providers, and this information may be requested by the driver. At the direction of the City, drivers may be allowed to seek treatment at their own expense and on their own time. However, the driver may not perform safety-sensitive functions if there is a substance abuse issue. Continued employment by the City and/or in the safety-sensitive function, or return to duty, following

being identified as having a substance abuse issue, is totally at the discretion of the City and employment decisions will be made in light of the City's Human Resources policy.

Implementation

It is the express intention of this policy for the City to be in compliance with the provisions of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration Regulations as promulgated in 49 CFR, Parts 40 and 382. The Federal Regulations are deemed to be the minimum standard for the City's policy and for the conduct of City employees in safety-sensitive functions. If any conflict between the policy and the Federal Regulations are deemed to have precedence and this policy is deemed to be subordinate to any conflicting regulation.

This statement of policy may be revised by the City at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy.

B. DRUG AND ALCOHOL TESTING POLICY FOR NON-COMMERCIAL MOTOR VEHICLE DRIVERS

The City of Chattanooga ("City') recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of City to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of City are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, City has adopted this drug and alcohol testing policy. The City and certain employees who drive commercial motor vehicles are subject to the requirements of federal statutes and implementing regulations issued by the Federal Highway Administration of the U.S. Department of Transportation. However, certain City employees who perform safety-sensitive functions are not covered by the Federal provisions. In addition, the City has an interest in maintaining the efficiency, productivity and well-being of employees who do not perform safety-sensitive functions.

This policy does not govern or apply to employees who are subject to testing as commercial motor vehicle operators under the foregoing federal law and regulations. These employees are governed by a separate policy enacted pursuant to that legislation. However, such employees may be tested as authorized by this policy if the circumstances giving rise to such testing do not arise from the employee's operation of a commercial motor vehicle.

It is the policy of City that the use of illegal drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct shall result in disciplinary action up to and including

immediate termination. Additionally, employees are subject to disciplinary action up to and including immediate termination for the unlawful manufacture, distribution, dispensation, possession, concealment or sale of alcohol or drugs while on duty, on City property, in City vehicles, during breaks or at lunch. Prohibited and/or illegal conduct includes but is not limited to:

1. Being on duty or performing work in or on City property while under the influence of illegal drugs and/or alcohol;

2. Engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on City property;

3. Refusing or failing a drug and/or alcohol test administered under this policy;

4. Providing an adulterated, altered, or substituted specimen for testing;

5. Use of alcohol within four (4) hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and

6. Use of alcohol or drugs within eight (8) hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

The City also reserves the right to require return to duty and follow-up testing as a result of a condition of reinstatement or continued employment in conjunction with or following completion of an approved drug and/or alcohol treatment, counseling or rehabilitation program.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of any legally prescribed medication that may create a safety hazard such as driving or using dangerous equipment, or may otherwise affect the performance of his/her job, or may require an accommodation. However, for the safety of all employees, City may place persons using such prescription drugs in a less hazardous job assignment, provided such assignment is available, or place them on temporary medical leave until released as fit for duty by the prescribing physician.

In order to educate the employees about the dangers of drug and/or alcohol abuse, City shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; City's policy regarding drugs and/or alcohol; and the availability of counseling. The Human Resources Director, or his/her designee, has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All City property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files, computers, and lockers. Employee-assigned lockers that are locked by the employee are also subject to inspection by the employee's supervisor in the presence of the employee after reasonable advance notice to the employee, unless such notice is waived by the Mayor or his/her designee.

This policy applies to all City employees and applicants who have been given a conditional offer of employment from the City.

Definitions

Adulterated or Substituted Specimen: A specimen that has been altered or substituted as evidenced by test results showing either a substance that does not contain normal constituents for that type of specimen or showing an abnormal concentration of an endogenous substance.

Chain of Custody: The methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing accountability at each stage in the handling, testing, and storing specimens and reporting test results.

Designated Employer Representative or DER: The City Human Resources Director or same position known by another title, or his/her designee.

Dilute Specimen*:* A specimen with creatinine and specific gravity values that is lower than expected from human urine.

Disabling Property Damage*:* Disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Drug*:* Any drug subject to testing pursuant to the Tennessee Drug Control Act of 1989, as amended.

Drug Test or Test*:* Any chemical, biological, or physical instrumental analysis administered by a certified laboratory for the purpose of determining the presence or absence of a drug or its metabolites or alcohol pursuant to regulations governing drugs or alcohol testing adopted by the United States Department of Transportation.

Employee: Any person who works for salary, wages, or other remuneration for City.

Employee Assistance Program: An established program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug or alcohol abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and follow-up services for employees who participate in the program or require monitoring after returning to work.

Medical Review Officer or MRO: A licensed physician, employed with or contracted by City, who has knowledge of substance abuse disorders, laboratory testing procedures and chain of custody collection procedures; who verifies positive, confirmed test results; and who has the necessary medical training to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information.

Reasonable-Suspicion Drug Testing*:* An employer's determination of reasonable suspicion shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee, including without limitation the following:

1. The presence of recognizable physical symptoms of drug or alcohol use, e.g., slurred speech, bloodshot eyes, alcohol on breath, inability to stand or to walk a straight line;

2. Indications of the chronic and withdrawal effects of controlled substances;

3. Direct knowledge or observation of drug or alcohol use or possession, or possession of drug paraphernalia; or

4. Aberrant conduct or behavior that is so unusual that it warrants summoning a supervisor or other assistance.

Safety-Sensitive Position: A position in which drug or alcohol constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents relating to criminal investigations or work with controlled substances, or a position in which momentary lapse of attention could result in injury or death to another person. Safety-sensitive positions include police officers, firefighters, positions requiring a Commercial Driver's License, Public Works positions involving the operation of heavy equipment, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers, and other positions having responsibility for the safety and care of children. A complete list of all safety-sensitive positions shall be maintained by the Human Resources Director or designee.

Significant Environmental Damage*: Damage involving t*he release of a reportable quantity (RQ) of a Hazardous Material (HM) that requires contacting and reporting said release to the Local, State, and/or Federal authorities and/or any release to the Storm Water System.

Specimen*:* Tissue, fluid, or a product of the human body capable of revealing the presence of alcohol, drugs, or their metabolites.

Split Specimen*:* The procedure by which each urine specimen is divided in two (2) and put into a primary specimen container and a secondary, or "split" specimen container. Only the primary specimen is opened and used for the initial screening and confirmation test. The split specimen container remains sealed and is stored at the testing laboratory.

Consent and Compliance

Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, MRO, and DER or his/her designee.

The consent form shall set forth the following information:

1. The procedure for confirming and verifying an initial positive test result;

2. The consequences of a verified positive test result; and

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

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol are present in the employee's system and to report the results of the findings to the City.

Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for disciplinary action up to and including termination.

Drug Testing

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six (6) separate conditions:

Pre-employment: All applicants for employee status in a safety-sensitive position who have received a conditional offer of employment with City must take a drug test before receiving a final offer of employment.

Transfer: Employees transferring to a safety-sensitive position will undergo drug testing.

Post-Accident/Post-Incident: As soon as practicable following any workplace accident/incident, each of City's surviving drivers shall be tested for controlled substances who meets any one of the enumerated conditions below:

a. Who was performing Safety-Sensitive Functions with respect to the vehicle, if the accident involved the loss of human life; or

b. Who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident if the accident involved:

   1. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or

   2. One or more motor vehicles incurring disabling property damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Post-accident/incident testing shall be carried out as soon as practicable and shall not exceed eight (8) hours following the accident/incident. Urine collection for post- accident/incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident/incident testing is to be performed, City reserves the right to direct the MRO to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

Post-Accident/Post-Incident for Ambulatory Employees: Following all workplace accidents/incidents where drug testing is to be performed, unless otherwise specified by the Department Head, any affected employees who are ambulatory will be taken by a supervisor or designated personnel of City to the designated urine specimen collection site as soon as practicable, but no later than eight (8) hours following the accident. In the event of an accident/incident occurring after regular work hours, the employee(s) will be taken to the (testing site) as soon as practicable, but no later than eight (8) hours following the accident. No employee shall consume drugs prior to completing the post-accident/incident testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident/incident testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of City and shall result in administrative action up to and including termination of employment.

Post-Accident/Post-Incident for Injured Employees: Any affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident/incident shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the MRO of City appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the

implementation date of the substance abuse policy of City or upon hiring following the implementation date.

Post-accident/post-incident urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, the City shall require certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure by medical personnel to do post-accident (post incident) testing within twelve (12) hours must be fully documented by the City.

Reasonable Suspicion Drug: A drug test is required for any employee where there is "reasonable suspicion" to believe the employee is using or is under the influence of drugs and/or alcohol (as that term is defined in Section C above). A Department Head or supervisor who has received drug detection training that complies with DOT regulations must make the decision to test.

Supervisory personnel of the City making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the Department Head within twenty-four (24) hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

Random: Safety-sensitive employees are subject to unannounced random drug and alcohol testing. Just prior to the testing event, the safety-sensitive employee is notified of his/her selection and is provided enough time to stop performing his/her safety-sensitive function and report to the testing location. (Failure to present at the testing location or interfering with the testing process can be considered a refusal-to-test). Random testing must be generated using a truly random selection process, with each Safety-Sensitive employee having an equal chance to be selected and tested at all times.

Return to Duty and Follow-Up

Any City employee who has violated the prohibited drug conduct standards must submit to a return to duty test. This provision in no way assures the employee of a right to continued employment by the City. The City retains the option to terminate an employee who fails to pass any required drug and/or alcohol test. Follow-up tests will be unannounced, and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to six (6) months following return to duty.

Prohibited Substances

Results of all drug testing will be reported to the MRO. If verified by the MRO, they will be reported to the DER. The following is a list of drugs for which tests will be routinely conducted (see Appendix B for cut-off levels):

- Marijuana
- Cocaine
- Opiates
- Methamphetamine
- Methadone
- Amphetamines
- Barbiturates
- Benzodiazepines
- Tricyclic antidepressant;
- Oxycodone; and
- Buprenorphine.

City may test for any additional substances listed under the Tennessee Drug Control Act of 1989, as amended, and/or any other illegal substances that may be designated by the City.

Collection Procedures

1. Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of City to a drug test collection facility selected by City, where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by City to perform the analysis on collected urine samples.

2. Collection under direct observation (by a person of the same gender) with no advance notice will occur if:

a. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the City that there was not an adequate medical explanation for the result; or

b. The MRO reports to the City that the original positive, adulterated, or substituted test result had to be canceled because the test of the split specimen could not be performed, or

c. The collector notes the specimen provided is not consistent with appearance, odor, temperature, or other normal parameters of normal, freshly donated human urine or notes the employee's conduct indicates an attempt to tamper with a specimen.

Additionally, the City will direct a collection under direct observation of an employee if the drug test is a return-to-duty or a follow-up test.

Drug Testing Laboratory Standards and Procedures

All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the testing site within eight (8) hours where proper collection procedures will be administered.

Each urine specimen is subdivided into two (2) bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has seventy-two (72) hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. If the MRO determines the test is positive, the MRO will notify the DER.

Reporting and Reviewing

City shall designate an MRO to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders.

The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by City.

Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective Department Head, the DER, and the employee.

Neither City, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the City Attorney.

ALCOHOL TESTING

An applicant or employee must carry and present a current and recent photo ID to

appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to alcohol testing under the following separate conditions:

Post-Accident/Post-Incident: As soon as practicable following any workplace accident ("incident"), each of City's surviving drivers shall be tested for controlled substances who meets any one of the enumerated conditions below:

1. Who was performing Safety-Sensitive Functions with respect to the vehicle, if the accident involved the loss of human life; or

2. Who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident if the accident involved:

    a. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or

    b. One or more motor vehicles incurring Disabling Property Damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Post-Accident/Post-Incident for Ambulatory Employees: Following all workplace accidents/incidents where alcohol testing is to be performed, unless otherwise specified by the Department Head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of City to the designated breath alcohol test site for a breath alcohol test within two (2) hours following the accident. In the event of an accident/incident occurring after regular work hours, the employee(s) will be taken to the testing site within two (2) hours. No employee shall consume alcohol prior to completing the post-accident/incident testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident/incident testing. Any unreasonable delay (greater than two (2) hours noted in the above paragraph) in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of City and shall result in administrative action up to and including termination of employment.

Post-Accident/Post-Incident for Injured Employees: An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the MRO of City appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of City or upon hiring following the implementation date.

Post-accident/incident breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, the City shall require certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if alcohol was present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure by medical personnel to do post-accident/incident testing within two (2) hours must be fully documented by City.

Reasonable Suspicion Alcohol: An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol (as that term is defined in Section C above). A Department Head or supervisor who has received alcohol detection that complies with DOT regulations must make the decision to test.

Random: Safety-Sensitive employees are subject to unannounced random drug and alcohol testing. Just prior to the testing event, the safety-sensitive employee is notified of his/her selection and is provided enough time to stop performing his/her safety-sensitive function and report to the testing location. (Failure to present at the testing location or interfering with the testing process can be considered a refusal-to-test). Random testing must be generated using a truly random selection process, with each safety-sensitive employee having an equal chance to be selected and tested at all times.

Supervisory personnel of City making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the Department Head within eight (8) hours of the decision to test and before the results of the tests are received by the department.

Return To Duty and Follow-Up: Any City employee who has violated the prohibited drug conduct standards must submit to a return to duty test. This provision in no way assures the employee of a right to continued employment by the City. The City retains the option to terminate an employee who fails to pass any required drug and/or alcohol test. Follow-up tests will be unannounced, and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to six (6) months following return to duty.

Alcohol Testing Procedures

All breath alcohol testing conducted for City shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

Alcohol testing is to be performed by a qualified technician as follows:

1. An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than two hundredths (0.02%) percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to two hundredths (0.02%) percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

2. Fifteen (15) minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or step two (2) is administered for each employee, the breath alcohol technician shall insure that the evidential breath testing device registers zero (0.00) on an air blank. If the reading is greater than zero (0.00), the breath alcohol technician shall conduct one more air blank. If the reading is greater than zero (0.00), testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then step one (1) shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in step two (2) shall be recorded and witnessed.

Any breath level found upon analysis to be between two hundredths (0.02%) percent BAL and thirty-nine thousandths (0.039
%) percent BAL shall result in the employee's removal from duty without pay for a minimum of twenty-four (24) hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of less than two hundredths (0.02%) percent before returning to duty with City.

If the lower of the breath alcohol measurements in step one (1) and step two (2) is thirty-nine thousandths (0.039%) percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of City up to and including termination of employment.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of City when possible.

The completed breath alcohol test form shall be submitted to DER.

EDUCATION AND TRAINING

Supervisory Training

Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include at a minimum two (2) sixty (60) minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One (1) sixty (60) minute training period will be for drugs and one will be for alcohol.

The City will annually sponsor a drug-free awareness program for all employees.

Distribution of Information

The minimal distribution of information for all employees will include the display and

distribution of:

1. Informational material on the effects of drug and alcohol abuse;

2. An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;

3. City policy regarding the use of prohibited drugs and/or alcohol; and

4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

Consequences of a Confirmed Positive Drug and/or Alcohol Test Result and/or Verified Positive Drug and/or Alcohol Test Result

Job applicants administered drug and/or alcohol tests will be denied employment with City if their initial positive pre-employment drug and alcohol test results have been confirmed/ verified or if adulterated substance was produced as a urine sample.

If a current employee's positive drug and alcohol test result has been confirmed, the employee will be disciplined up to and including immediate termination.

No disciplinary action may be taken pursuant to this policy against employees who voluntarily identify themselves as drug and/or alcohol users, obtain counseling and rehabilitation through the City's Employee Assistance Program or another program approved by the City, and thereafter refrain from violating the City's policy on drug and alcohol abuse.

Refusing to submit to an alcohol or drug test means that an employee: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for drug testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician shall provide a written statement to City indicating a refusal to test. For an adulterated or substituted test resulting from an Adulterated or Substituted Specimen, if a legitimate medical reason cannot be established for the result, the MRO and/or the collection site will report the result as a refusal.

Voluntary Disclosure of Drug and/or Alcohol Use

In the event that an employee of City is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her matter with the respective Department Head in private.

Such voluntary desire for help with a substance abuse issue will be honored by the City. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of City are entitled to up to thirty (30) consecutive calendar days for initial substance abuse treatment. In the event accumulated personal leave or compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of thirty (30) consecutive calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum thirty (30) day treatment period.

Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the substance abuse professional (SAP). The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective Department Head and Human Resources Director will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in disciplinary action up to and including immediate termination of employment.

These provisions apply to voluntary disclosure of a substance abuse issue by an employee of the City. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy.

Exceptions

This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol.

This statement of policy replaces the City's policy regarding Alcohol and Drugs, which was last revised on April 15, 1999, and may be revised by City at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of City.

SECTION IX – GENERAL POLICIES

A. TRAVEL

The following procedures constitute the official policy for the City of Chattanooga employee travel at the City's expense, except where departments are governed by state or federal travel regulations, those regulations shall take precedence. The Finance Officer may amend this policy as needed.

City employees are expected to be as conservative as circumstances permit and to keep adequate expense records for supporting reimbursement claims. Unclear or seemingly unreasonable claims will require an explanation and can result in non-reimbursement. Departure or return dates which are more than one day outside the official start or end of a business trip will be considered personal travel and will not be reimbursed unless it results in a lower total cost to the City.

A Travel Expense Report detailing all expenses associated with a single trip including purchases made with a City purchase card and other prepaid expenses must be submitted to the Finance Department. This report should be submitted with either: (1) a collection report for the return of the balance of an advance; (2) a warrant voucher for reimbursement of additional expenses; or (3) separately if neither a warrant voucher or collection report is needed when nothing is due to the City or the employee. The report must be submitted within three (3) weeks after the return from travel, and must contain: (1) include a copy (if applicable) of the *"Travel Advance"* form and/or *"Extended Travel Form"* if cash advances, rental cars, or extended travel was involved; (2) disclose all expenses associated with the trip including prepaid expenses and any purchase card expenses; (3) include proper receipts as required (see *"Receipts"* paragraph); (4) show all miscellaneous expenses separately and in detailed form; and (5) fully substantiate the cost of each trip for IRS purposes.

Travel not accounted for within the required timeframe may result in a deduction from the employee's paycheck. All personnel must account for each travel instance with a "Travel Expense Report" even if there is no balance payable by the City or due from the employee. Claims that do not comply with these regulations will not be reimbursed without a specifically approved exception authorized by the Mayor or designee.

Reimbursement may not be claimed for costs incurred on behalf of non-City employees unless it is approved as a Business & Entertainment Expense as defined in this policy or included as a contractual provision between the City and a contractor.

If a travel expense report is not submitted within three (3) weeks of the return date, the cost of the trip may be deducted from the employee's wages. Failure to disclose all related cost to the City will be considered a violation of the City's Travel Regulations and may be considered a fraudulent claim thereby subject to denial of claim or other disciplinary actions.

Convention brochures or other literature containing rates and other information concerning

travel, when applicable and available, should be submitted with the Travel Expense Report and with any request for pre-paid expenses. Failure to include such documentation shall render the Travel Expense Report or Travel Advance incomplete and may result in denial and/or delay in processing.

Blank travel related forms and travel regulations can be obtained from the Finance Office or online at the City of Chattanooga Intranet Home Page under Finance Forms.

http://int.chattanooga.gov

Reimbursement, advance and/or prepaid travel will not be made without proper authorization. Employee request for reimbursement and/or travel advance must be approved by his/her Department Head or designee. The request for a cash advance must be made by submitting a completed "*Travel Advance*" form to the Department Head for approval. Department Head's travel expense must be approved by the Mayor or designee.

Use of a City purchasing card for any travel related expenses must be disclosed on the Travel Advance Form and Travel Expense Report.

The City of Chattanooga has adopted the U.S. General Services Administration's per diem rates for lodging, meals, and incidental expenses. The rates are commonly referred to as CONUS rates. These rates may be found at http://www.gsa.gov or by following the link: http://www.gsa.gov/perdiem. The website includes links to all applicable rates. If neither the City nor the County rate for your destination is listed, use the standard CONUS rate for lodging and meals and incidental expenses (M&IE) shown in the note section for each state.

CONUS rates for Lodging do not include applicable occupancy taxes. These amounts may be added to your reimbursement request.

CONUS rates for Meals & Incidental Expenses include the following: (1) meals and related tips; (2) fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses; and (3) transportation between places of lodging or businesses and places where meals are taken.

The following requirements apply to lodging.

1. Receipts are required.

2. Reimbursement is limited to the lesser of your actual single occupancy rate or the CONUS rate. However, conference hotels are reimbursed at one-hundred percent (100%) of actual cost. Provide a conference brochure which shows the applicable rates for your conference event.

3. In the event of double occupancy for a room shared by City employees on official travel, both employees should attach an explanation to his/her *"Travel Expense Report"* detailing dates and other employees with whom the room was shared.

4. Lodging cost may only be claimed by the employee(s) who incurred the cost.

5. Hotels should be paid in advance by City of Chattanooga check or a City purchase card which has been authorized for travel expense. When making reservations, find out if checks are accepted. If advance payment of the hotel is requested, a warrant voucher must be received by accounting seven (7) working days prior to the trip to ensure timely receipt of payment by the hotel. The voucher should be accompanied by a confirmation from the hotel which shows the correct amount including all applicable fees and occupancy taxes.

6. Many hotels do not accept a City check presented upon arrival. You are encouraged to use a City purchase card. Prior to your trip, make sure the purchase card has been authorized for travel expense. Otherwise, be prepared to use a personal credit card to hold the room in the event you encounter a problem.

The following requirements apply to meals.

1. Per diem may NOT be claimed by an employee if a City purchase card is used for any meals. However, the daily meal limits do apply.

2. Meal receipts are not required for reimbursement based on per diem rates.

3. Copies of the purchase card receipts must be attached to the Travel Expense Report. The original receipts should be submitted to Accounts Payable with the purchase card Authorization of Allocated Charges form and must be noted as travel-related.

4. The full per diem rate will be reimbursed to employees for each full day of travel unless a City Purchase Card is used for meals.

5. Reimbursements for departure dates and return dates will be at seventy-five percent (75%) of the daily per diem rate for claims on which no City Purchase Card is used.

In addition to meals and lodging, City employees will be reimbursed for the following miscellaneous expenses while on travel status. Original receipts are required where applicable.

Any expense not expressly included herein requires written justification and will be subject to Department Head approval.

Business & Personal Telephone Calls

Charges for telephone calls on official business will be allowed. A statement indicating the cost, date, name and location called must be provided with expense report. Claimable charges for personal telephone calls are limited to three (3) minutes per full day of official travel status.

Parking Fees

Reasonable parking fees will be reimbursed when applicable. Receipts are required unless included on detailed hotel bill. However, documentation of expenses for park-and-pay lots, valet parking, or parking meters are reimbursable up to six dollars ($6) per day without a receipt if the parking location, date, and purpose are documented.

Tips Not Related to Meals

Reimbursements for tips not related to meals (hotel baggage handling, valet, airport baggage handling, housekeeping, etc.) are included in the basic CONUS rate for Meals & Incidental Expenses and may not be claimed separately.

Taxi Fares

Reasonable taxi fares, if an individual travels by common carrier, will be reimbursed for necessary travel. It is expected that shuttle or taxi service to and from airports will be used when available and practical. Receipts are required. Taxi fares to places where meals are taken are included in the CONUS rate and may not be reimbursed.

Travel Agent Fees

Fees for travel agents and on-line travel services such as Priceline.com are reimbursable.

City employees using their personal vehicle for City travel may claim reimbursement on mileage incurred for authorized City business based on the IRS mileage rate for the travel period. The current rate can be found on the Travel Expense Report form located on the City Intranet website (http://int.chattanooga.gov). This mileage allowance includes all operating expenses such as gas, oil and repairs, precluding any separate claim for such items. The employee is responsible for providing adequate insurance on private vehicles to hold the City harmless from any resultant liability.

The following guidelines apply to travel reimbursement:

1. Travel must be by the most direct route possible. An individual traveling by indirect route must assume any extra expense incurred.

2. Mileage reimbursement cannot exceed the amount of coach airfare for the same time period.

3. Documentation of estimated airfare is required for trips in excess of five hundred (500) miles one way.

4. Mileage may be documented on a City of Chattanooga Business Mileage Log or by submission of MapQuest directions (http://www.mapquest.com/) showing the point-to-point mileage.

City employees are expected to take advantage of discount fares and advance booking discounts whenever practical. Air fares should not exceed the regular tourist or coach fares,

unless these fares are not available. Mileage credits for frequent flyer programs accrue to the individual traveler. A copy of the airline receipt and flight schedule must be submitted with Travel Expense Report.

The daily meal per diem does not apply to trips that do not require an overnight stay by an employee do not fall under the City Travel Regulations. Receipts must be provided for any reimbursable meals. Reimbursement is limited to the Standard CONUS location amount.

Specific advance approval is required on the *"Travel Advance"* form for rental car reimbursement. Such approval will not be granted absent a compelling public interest which requires the use of a rental car. Car rental must be approved in advance by the appropriate Department Head or the Mayor or designee. When rental cars are used, City employees are required to purchase (at the City's expense) the rental agency's additional insurance coverage on rental cars. Receipts are required for the total expense of the rental.

The following guidelines apply to extended travel, for City employees on continuous travel for a period of more than two (2) weeks.

1. All employees must complete an *"Extended Travel Form"* prior to the event.
2. The form includes a cash advance section. Use this section, if needed, rather than a separate "Travel Advance Form" if a cash advance is needed.
3. Advance clarification of what expenses the City of Chattanooga will pay and of what documentation will be required is encouraged.
4. Extended travel may require an employee to rent a furnished apartment. In such cases, the apartment rental should be approved in advance by the appropriate Department Head, Mayor or designee.
5. Monthly reimbursement for rental, utilities, etc. shall not exceed the daily lodging rate multiplied by thirty days.
6. One (1) trip home each full month will be allowed if approved in advance and expenses are reasonable. Employees attending extended training classes must provide a complete class, school, or academy brochure and other material including information showing whether or not meals and lodging are provided. Daily per diem rates will be adjusted accordingly. Meal per diem rates will drop for breakfast, lunch, and diner by the amounts shown on the CONUS website. The shortcut is http://www.gsa.gov/mie

Entertainment expenses are not authorized unless approval is given by the Mayor or designee, or the Department Head. City employees will be reimbursed for actual costs incurred related to meals and entertainment expenses directly related to City business. The *"Travel Expense Report"* must be accompanied by a statement indicating the following: (1) the names and title or business affiliation of the persons covered by the expenses, or their business affiliation and number of people if a list is not available; (2) the time and location of the meeting; and (3) the business purpose of the meeting expenses. Receipts are required for

business & entertainment expenses.

Meals provided for prisoners are reimbursable to a City Police Officer if receipts are provided. The reason for transporting and the number of prisoners transported must be stated.

City employees will be reimbursed for out-of-pocket expenses such as gasoline, oil or emergency repairs to a City-owned vehicle. The *"Travel Expense Report"* must be accompanied by proper receipts itemizing the charges and identifying the specific City-owned vehicle. These expenses must be of an emergency nature where immediate service is required.

Receipts must accompany the "Travel Expense Report" form. A credit card copy is not sufficient. Original receipts are required for the following reimbursable items

1. Lodging receipts itemizing room charges and taxes. (In-room movies are not reimbursable)

2. Business and personal telephone calls

3. Parking costs in excess of the $6 per day as described in "Miscellaneous Expense"

4. Taxi fares

5. Travel agent fees

6. Meal costs incurred during one-day travel

7. Rental car

8. Business and Entertainment expenses

9. Transportation of prisoners

10. Emergency repairs and other expenses for a City vehicle

11. Copies of City Purchase Card receipts are required. Originals are to be submitted with the purchase card packages

12. Any other expense not specifically exempted from receipts below.

Receipts are not required for following reimbursable items: (1) meals reimbursed based on meal per diem and (2) Parking totaling less than six dollars ($6.00).

All cash advances for travel will be made through the Finance Department. No cash advances will be made for less than fifty dollars ($50.00). If the hotel will not accept checks then a cash advance may also include the estimated hotel cost.

Cash advances will not be issued more than two (2) weeks prior to the travel date. Warrant vouchers for a travel advance must be received by accounting at least two (2) full work days prior to travel to ensure timely processing. Employees who have delinquent travel reports outstanding will not be issued new travel advances until expense reports have been submitted for prior trips and amounts due the City have been cleared.

Employees and Departments are required to follow the procedure below for cash advances for travel.

To request a cash advance for travel, an employee must complete a *"Travel Advance"* form. The form must: (1) specify the amount of the request and the purpose; (2) contain the employee's signature in the payroll authorization section; and (3) specify the dates of the travel.

The Department is required to prepare a warrant voucher for the amount specified made payable to the employee and submit the completed voucher to Accounting. The voucher should include: (1) a copy of the *"Travel Advance"* form; (2) the Department's Fund Number and Account 125102; and (3) required departmental signatures and submit to Accounting.

Employees and Departments are required to use the procedure below to provide documentation to account for cash advances.

Employees must submit *"Travel Expense Report"* form with a complete accounting of the travel along with any funds due within three (3) weeks of the return date of the trip. Failure to adhere to this policy may result in payroll deduction for any travel disbursement made by the City of Chattanooga. The form must be submitted to the employee in the department who is responsible for preparation of the package to forward to the Finance Department.

The Department is required to prepare a warrant voucher or a collection report to Accounting within three (3) weeks of the return date of the trip. A collection report or warrant voucher to account for funds due the City or for reimbursement to the employee for additional expenses should also be submitted. The entire trip package must accompany the collection report or warrant voucher.

The Mayor or designee shall have the exclusive authority to grant exemption from any or all parts of the Travel Regulation whenever deemed necessary and appropriate. Such waiver must be in writing and include a justification.

B. USE OF CITY VEHICLES

This Section establishes guidelines and procedures for all take home City vehicles used by City personnel regarding after hours use of City vehicles and employee reimbursements for business use of their private vehicles while on City business. This applies to all City employees unless otherwise noted within the policy.

It is the intent of the City to provide effective and efficient usage of all City vehicles and, at the same time, provide the most effective and efficient service possible at all times. To facilitate this process, authorized individuals may be granted the use of City vehicles for transportation to and from their place of residence and their work place or in response to problems during other than normal work hours.

The City Take Home Vehicle Program includes the following provisions.

1. The City Take Home Vehicle program may be terminated in whole or in part and any vehicle may be withdrawn from the program at any time at the sole discretion of the Department Head, Chief Operating Officer, City Finance Officer, or designee, which decision shall be a management decision concerning the use of valuable City property and is not subject to any grievance procedures.

2. Division managers, through the Fleet Manager, shall be responsible for the administration of the program within their own areas. They will ensure that employee activities involving this program are monitored and that any indiscretions are investigated and, if necessary, reported to the Fleet Management Supervisor for action.

3. The Fleet Manager shall be responsible for monitoring the maintenance performed City vehicles and for correcting deviations from these guidelines.

4. The Fleet Management Division will maintain and review assignment criteria and requests for classification in order to serve the interests of the City and meet the business transportation needs of employees.

5. The Fleet Management and Finance Divisions will monitor reimbursement rates, estimated vehicle costs, and assignment criteria and recommend modifications as necessary.

6. The City Finance Office shall have the final authority for administering, interpreting, and applying the terms of the policy. This includes, but is not limited to, determining the appropriate assignment for employees who are eligible.

The following provisions apply to determine employee participation in the City Take Home Vehicle Program.

Eligibility for participation in the City Take Home Vehicle Program is limited to employees who reside within the boundaries of the City of Chattanooga unless specifically authorized by the Department Head, Chief Operating Officer, City Finance Officer or Mayor's Office. If an employee assigned a City vehicle under this program moves outside of the boundaries of the City of Chattanooga, s/he will have to obtain written authorization to continue in the program. Eligibility for the program in and of itself does not guarantee assignment of a vehicle.

An employee may be ineligible for participation in the City Take Home Vehicle Program if the employee's accident records reflect a history of preventable accidents attributable to

negligence and/or a disregard for established policy and procedure.

An employee may be ineligible for participation in the program if the employee's home fails to project a positive image of the City of Chattanooga. Indicators include, but are not limited to, yard in disrepair, house in disrepair, rubbish strewn or stacked around the yard, etc.

Vehicles assigned to the City Take Home Vehicle Program will not be operated by any non-City individual and will not be used for transportation to or from business where the primary purpose is the serving of alcoholic beverages. Program vehicles will not be operated if the employee has consumed any alcoholic beverage that would cause impairment. Personnel operating any City vehicle with non-City employee riders will be responsible for the conduct of the occupants so that no discredit or embarrassment comes to the City.

Participants may be required to complete a monthly vehicle log and submit the log to the Fleet Maintenance Supervisor.

All policies and procedures of the City of Chattanooga shall remain in effect while assigned City vehicles are operated on duty and after hours.

Noncompliance with eligibility requirements will be grounds for immediate termination from the program.

City employees are expected to comply with the following City vehicle operation and maintenance requirements.

1. City vehicles will only be operated by authorized personnel.

2. Unattended vehicles will be locked at all times.

3. Unattended vehicles will not have a key in the ignition.

4. Personnel assigned City vehicles will exercise prudence in the use and operation of their vehicle to maximize vehicle life expectancy and operating efficiency.

5. No special privileges are to be assumed such as exceeding posted speed limits, parking in restricted zones or violating any traffic regulations.

6. Any City personnel discovering damage to the vehicle or who becomes involved in an automobile accident will immediately notify his supervisor and the City Attorney's Office.

7. Employees assigned a City vehicle will not use that vehicle in conjunction with the purchase or transportation of alcoholic beverages.

8. Transportation, while off duty, of family members and friends is not permissible in City vehicles without prior approval. Personnel assigned City vehicles are

responsible for the cleanliness of the vehicle inside and out.

9. An employee assigned to a take home vehicle is responsible for making sure that proper maintenance is completed at designated intervals, and for promptly reporting all damage to the vehicle. Employees are responsible for reporting any and all vehicle and equipment mechanical problems to Fleet Management.

10. The employee is responsible for security of the Department vehicle while parked at the employee's residence.

11. No accessories or equipment will be added, removed or modified without the authorization of the Department Head.

12. Off duty personnel must be capable of responding to calls in an emergency.

13. Employees who are on the City's Injury on Duty (IOD) program and not working in any capacity shall relinquish the use of their City vehicle until they return to full duty status.

City Vehicle Use Procedures

1. The Department Head may temporarily assign an available City owned vehicle (work-to-home use) to an employee during a disaster, inclement weather or other such circumstance for which the employee may need to respond during regular business and/or after hours to work related situations.

2. If City business requires traveling outside of the geographical boundaries of the City of Chattanooga, the employee will take the most direct route to and from their destination of City business.

3. Off duty use is restricted to City of Chattanooga related functions, i.e., traveling on City business, to and from training seminars, public meetings, etc.

4. Parking fees associated with City business are reimbursable upon receipt of proper documentation. Parking tickets are the responsibility of the driver receiving the ticket and should be resolved in a timely manner.

Vehicle Safety and Security Procedures

1. Family members are permitted to be in the vehicle when the employee is operating the vehicle. All provisions of laws reference seat belts, child restraint seats, etc., must be followed.

2. Employees will ensure that the vehicle is locked while not in use.

3. During vacations or other extended time away from the assignment, where

the employee leaves the City for more than three (3) days out of town, the vehicle will be parked at the City fleet lot or other designated secure area, until the employee returns to work.

4. Employees residing outside the Chattanooga City limits may not use their assigned take home vehicle during off-duty time except for work related activities.

5. Any City employee, while operating any City of Chattanooga vehicle, or any vehicle authorized for job related use, shall not use any department or personal cellular phone while the vehicle is in motion. Prior to placing or answering a cellular call, while operating a vehicle, the vehicle will first be pulled from the roadway and brought to a complete stop.

6. Every participant with a take home vehicle shall exercise reasonable caution and care while operating City vehicles.

7. Driving any City vehicle while under the influence of, or in possession of alcohol or any illegal drug, is strictly prohibited.

8. Tobacco use is prohibited in all City owned vehicle.

9. No person shall operate a take home vehicle if taking prescription medications that impair or impede their ability to operate the vehicle safely.

10. Any employee convicted of driving under the influence of an intoxicating substance while on City business, or in a City vehicle, will be subject to disciplinary action, up to and including termination.

An employee can be removed from the City Take Home Vehicle Program when an employee transfers to another assignment or accepts a promotion where a take home vehicle is not required will no longer qualify for the take home vehicle; or at the Department Head or City Finance Officer's discretion. Employees may be removed for any reason, or no reason. Continued participation in the program is a privilege and not an employee benefit or entitlement. Vehicles are the property of the City of Chattanooga and will be assigned according to the best interests of the City.

Employees with take home vehicles are reminded the program is designed to benefit the public through quick response to emergencies and cost savings in maintenance. The assignment of a take home vehicle is a privilege and not a benefit. Misuse or misconduct involving the use of a City owned vehicle may result in the revocation of the privilege and/or other disciplinary action. Employees participating in the take home vehicle program are required to be familiar with these rules and will abide by these requirements.

Eligibility Requirements of the Take Home Vehicle Program

An employee is authorized take-home use of a City vehicle, if the employee is: (1) subject to frequent after-hours emergency callback or other unscheduled work; and (2) such unscheduled work involves the first response to a real or present threat to life or property requiring immediate response; and (3) a specialized vehicle, tools, parts, or equipment are required for the performance of emergency duties.

A City Employee is also eligible to take-home use of a City vehicle if that employee is: (1) subject to frequent after-hours callback; (2) such call back arrangements are to locations other than the employee's normal duty station; (3) a special vehicle, tools, parts, or equipment are required to perform after-hours assignments, and (4) an unacceptable delay in the response would result from the employee's return to the normal duty station to retrieve the needed equipment. This category is normally reserved for emergency maintenance response situations where a group of employees share formal on-call responsibilities on a rotational basis, typically for a week at a time. In such cases, the use of the take-home vehicle is for the period of on-call assignment only.

Sworn Police personnel required to use an individually assigned City vehicle during their normal duty tour of duty may use the vehicle for commuting purposes. While not on duty during such commutes, officers are expected to take action on incidences they may encounter. Any time spent responding to such incidents or callback return to work is work time and shall be reported as soon as practical. Persons qualifying for the use of a take-home vehicle under this provision may be required to pay a portion of the cost of commuting mileage at a rate equal to seventy percent (75%) of the City's established mileage reimbursement rate. Department Heads shall determine reasonable schedules and vehicle assignments for rotational, on-call coverage. For other purposes, the City Finance Officer, at the written request of the Department Head, will authorize full-time take-home vehicles based on the criteria described above.

When the employee is authorize to take home a City vehicle, the employee's Department Head shall contact the Fleet Manager, Payroll Division and Finance Director to report such authorization and to supply all related information required by the IRS regulation.

If an employee is scheduled to be out of work for more than three days, the Department Head will require that the vehicle assigned to the employee be returned to the work site for utilization during their absence.

Department Heads will recommend, and the City Finance Officer will approve, assignment of take-home vehicles, consistent with guidelines in this policy and a list of vehicles authorized for take home use shall be submitted by the Department Head to the Fleet Manager by July 1 of each year.

Take-home vehicles will be assigned to employees occupying positions where there is a potential for imminent danger, property damage or loss or interruption of City services, if the employee could not or did not respond quickly; the employee reports directly to an emergency scene; or there is a statistically high callout rate.

No personal use of take-home vehicle is permitted. No passenger may be transported in take-home vehicles except as required for official duties or as approved by the Department Head.

Take-home vehicles may not be used for commuting travel outside of Hamilton County.

Mileage Reimbursement

Mileage reimbursement may be authorized by the Department Head for an employee who must utilize his/her personal vehicle to conduct City business and who receives no other form of allowance. Commuting mileage to respond to an after-hours, call-back or unscheduled return to work is considered as official City business. Claims for mileage reimbursement shall be made in accordance with the current Travel Expense Reimbursement procedures. The standard rate of mileage reimbursement shall be set annually upon the recommendation of the City Finance Officer.

Employees assigned to outlying work locations who are periodically required to travel to downtown facilities on official business will be reimbursed any parking meter fees paid. A parking ticket receipt is required for parking facility charges to be reimbursed.

Auto Expense Allowance

An employee will be considered for an auto expense allowance, if the employee:

1. is on twenty-four (24) hour call;

2. is frequently required to work outside of normal business hours or respond to after-hours emergencies;

3. does not require a specialized vehicle, tools or equipment, and

4. is not authorized a take-home vehicle or not assigned use of a City vehicle.

The dollar amount of auto expense allowance shall be established and reviewed annually through the budget process. Allowance amounts are to be determined based on the nature and extent of vehicle utilization required for official business.

The City Finance Officer, upon written request from the Department Head, shall review and approve these allowances. Department Heads are responsible for acting upon any change in duty assignment that would alter an employee's eligibility to receive or to discontinue receiving and auto expense allowance.

All cost of personal vehicle ownership, operation, and maintenance will be the responsibility of the employee.

Employees authorized auto expense allowance must possess a valid driver's license, a

current state inspection, a current vehicle registration and must have insurance of a type and level required by State Law.

The vehicle shall be appropriate for City business, consistent with the duties and responsibilities of the employee. Except for infrequent incidences necessitated for personal vehicle maintenance, employees authorized an auto expense allowance shall not be permitted use of the City car pool for business travel within Hamilton County.

For travel outside of Hamilton County and contiguous counties, the employee may either: (1) request per mile reimbursement for the entire trip at the City's established mileage reimbursement rate, or (2) request a vehicle from the City carpool.

All other departments must analyze their needs and reduce the number of vehicles in their current fleet especially the low-mileage vehicles.

Additional rules and regulations will be promulgated and enforced by the General Services division pertaining to operations, maintenance, ownership and overall management of the fleet.

C. DRIVING RECORDS

Any employee who is required as an employment condition to possess and maintain a valid Tennessee driver's or commercial driver's license must immediately, before reporting for duty the next workday, inform his/her supervisor if his/her license becomes denied, expired, restricted, suspended, or revoked any time during employment with the City. The Human Resources Department may conduct periodic reviews of employees' driving records.

D. SOLICITATION

Unauthorized solicitation of employees on the premises is strictly prohibited. This prohibition applies both to City employees and non-employees of the City. Solicitation of gifts (for such occasions as resignations, retirements, weddings and births) may be authorized by the Department Head or Human Resources Department. Contributions may be solicited on City property only with the permission of the Department Head or Human Resources Department. Miscellaneous solicitation of contributions within a single department may be made with the permission of the Department Head.

It should be emphasized that no pressure is to be placed on any employee to make any contributions.

E. POLITICAL ACTIVITY

All employees shall be free to vote for and support any political candidate they choose without interference, coercion, pressure or dictation by any superior. All employees as private citizens and off duty shall be free to join or affiliate with civic organizations including those of a partisan or political nature; attend political meetings; advocate and support the

principles or policies of civic or political organizations in accordance with the constitution and laws of the state and in accordance with the Constitution and laws of the United States; take an active part in any political campaign, except those in conflict with the restrictions listed below; act as custodian of funds for political or partisan purposes; and distribute books, pamphlets or handbills favoring or opposing any candidate for nomination or election to public office; except as any or all of the above are modified by laws of the state or laws or regulations of the United States.

No officer or employee of the City shall:

1. Be compelled or coerced to make any contributions, assessments or other payments to any political organization or member or committee thereof.
2. Be allowed to solicit any contribution, or to sell any ticket, or to procure money by any devise from the public or any member thereof, or to solicit any other political favor, while on duty.
3. Use or threaten to use his/her influence, because of position as a City employee, favoring or opposing any candidate or issue.
4. Use any City funds, supplies or equipment for political purposes.
5. Participate in any political activity while wearing any uniform or part of any uniform associating them with their City employment.
6. Work on any political posters, mailing lists or other materials, whether written or otherwise, which are used to influence or attempt to influence voters, while on duty or while in uniform.

Employees are eligible to run for an elective office, including elective offices for the City of Chattanooga, so long as the employee adheres to the following provisions:

1. Federal law prohibits a City employee from running for an elective office if the employee's position or duties are connected with an activity financed in whole or in part by federal loans or grants, unless the election is non-partisan.
2. Before officially filing, employees who seek to run for public office, with the exception of elected officials of the City of Chattanooga, shall give written notice to the employees Department Head stating the intention to seek elective office and the title of the elective office the employee will seek.
3. The employee's Department Head holds the right to place the employee on a leave of absence if it is determined that the employee's candidacy does one or more of the following:

a. interferes with the employee's assigned job duties and responsibilities;
b. represents a conflict of interest; or
c. results in campaigning while on duty.

If there is a question as to whether a conflict of interest exists, such matter shall be forwarded to the Chief Ethics Officer for a recommendation to the employee's Department Head. In those instances in which a conflict is found to exist, the employee may appeal the decision. If a conflict is found to exist, the employee shall be placed on a leave of absence. If the employee wishes to continue receiving compensation when placed on a leave of absence, the employee shall first use compensatory leave, then personal leave. When all accrued leave is finally exhausted, the employee may be placed on a leave of absence without pay.

4. Should the employee be successful in acquiring the elective office sought, other than a City of Chattanooga elective office, the employee shall be allowed to continue City employment as long as the employee's elected responsibilities do not conflict with the employee's assigned job duties and responsibilities. The employee's Department Head shall determine whether such a conflict exists. If the Department Head determines that a conflict exists, the employee shall decide within fifteen (15) days from the date of such determination whether to retain employment with the City or serve in his or her elected position. In those instances in which the conflict results in a dismissal of the employee, the employee may appeal the decision.

5. Should problems arise in the matter of City employees seeking elective office that are not defined in this section, the matter shall be present to the employee's Department Head for resolution.

6. Nothing contained in this section shall be construed to be inconsistent with any applicable state or federal statue or regulation that may provide otherwise, and this section shall be supplemental to any such applicable state or federal regulation or statue.

F. COMMUNICATING WITH ELECTED PUBLIC OFFICIALS

A City employee has a right to communicate with Elected Public Officials under the Employee Political Freedom Act ("PEPFA") T.C.A. §§ 8-50-601-604. The City will not discipline, threaten to discipline or discriminate against any employee for communication with an elected public official unless the statement to the elected public official is untrue.

G. CELL PHONES

Employees should keep use of personal cell phones or other personal handheld communication devices to a minimum so that use of these devices does not interfere with the employee's work or the City's operations. Cell phones shall be turned off or set to silent or vibrate mode during meetings, conferences and in other locations where incoming calls may disrupt normal workflow. If employee use of a personal cell phone causes disruptions or loss

in productivity, the employee may be subject to disciplinary action.

Under the Tennessee Public Records Act, any record made or received in connection with the transaction of City business is a public record, unless such record is confidential under federal or state law, regardless of whether the record was made or received on or through City proved resources or personal resources. Public records are subject to inspection by any citizen of Tennessee. Billing records or any other record of communications (such as texts and emails) made or received on a City provided or personal wireless device in connection with the transaction of City business are subject to inspection unless confidential under federal or state law.

Employees should never loan their City wireless equipment to anyone other than another employee. Employees remain responsible for all use of their wireless device. Employees should immediately report any theft or loss of a City wireless device to the IT Department.

Upon separation from the City, employees must return City wireless devices to their department.

H. PROFESSIONAL CONDUCT

Employees are representatives of the City, and as such, are expected and encouraged to conduct themselves at all times in a manner so as not to bring discredit upon the City of Chattanooga. Any contact with the general public should be handled in a professional manner. Professionalism, politeness and courtesy are essential. Lack of courtesy and professionalism may result in disciplinary action.

I. DRESS CODE

Personal appearance and manner of dress is an important part of your job responsibilities. Employees are expected to dress and groom in a manner which reflects good taste and which is appropriate for the type of work performed. Since all employees deal with co-workers and the public on a daily basis, personal hygiene is a requirement. Employees should ensure their personal hygiene will not be offensive to others around them. This includes but is not limited to – scented body products, perfume/cologne, oral hygiene and body odor. Specific dress codes vary based on the position held and whether the job requires the use of a uniform.

Uniforms

In departments where uniforms are required to be worn, all employees are expected to wear the uniform according to departmental policy. All uniforms are expected to be kept neat and in good condition. Depending on the department an employee is assigned to, the City may either furnish a uniform or pay the employee a uniform allowance.

Administrative Employees

Employees who do not regularly meet with the public should follow basic requirements of

safety and comfort, but should still be as neat and business-like as working conditions permit. Administrative employees who deal with the public are expected to dress in a manner that is professional and that projects a positive image for the City.

Employees are required to adhere to the following guidelines.

1. Clothing should be worn and fit in such a manner that it does not expose the abdomen, chest or buttocks areas.

2. Clothing should be free of sexually related references, foul language, or messages that suggest or promote the use of illegal drugs or alcohol.

3. Body piercing jewelry will only be worn on the ear. No other areas of the body should be visible with body piercing jewelry.
4. In keeping with a professional image, visible tattoos shall not be obscene as determined by the Department Head or designee.

5. Employees may not wear halter tops, beachwear, t-shirts (without City logos), sports jerseys, shorts, spandex or other form fitting pants, work-out attire or distracting, offensive or revealing clothes on any day of the workweek.

6. The Department Head or designee may choose to authorize a particular day or day of the week during which casual clothing may be worn. On designated casual days, employees may wear sports jerseys or shirts and blue jeans that are not overly worn, torn or tattered.

An employee who does not meet the standards of this policy will be subject to corrective actions, which may include leaving the work location to correct the dress code violation. Any work time missed because of failure to comply with this policy will not be compensated, and repeated violations of this policy may be cause for disciplinary action.

J. LOCKERS, ADDITIONAL STORAGE AREAS AND PERSONAL PROPERTY

Locker rooms and lockers may be provided as needed so employees may change their clothing before and after work. Employees are expected to furnish their own lock and/or key; however, employees may assume no expectation of privacy as the lockers are the property of the City. The City will assume no liability for loss or damage to the contents of lockers or additional storage areas including personal vehicles. Employees may be required to open their lockers or other storage areas for periodic housekeeping, inspections, when it is appropriate and/or necessary, as there is no expectation of privacy. Employees who use locker rooms are expected to assist in keeping them clean and orderly.

Any suspicious activity around lockers, as well as break-ins and thefts, should be reported to a supervisor.

All unclaimed personal property of current and former City employees shall be delivered to the Purchasing Agent to be forfeited and disposed of as surplus property after sixty (60)

days. Prior to disposal of the unclaimed personal property, the purchasing agent shall make reasonable effort to notify the owner, including mailing notice to the owner of such personal property by certified mail to such owner's last known address if such has not been done by the department that came into possession of such unclaimed/abandoned property before delivery to the purchasing agent.

K. BULLETIN BOARDS

At numerous locations, the City maintains bulletin boards 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 being posted.

L. EMPLOYEE AWARDS

Upon recommendations of any City leader and at the discretion and approval of the Department Head or designee**,** employee awards, including but not limited to safety awards, service awards, productivity awards and retirement awards, may be presented to an employee in recognition of significant contributions made by that employee to the City service.

M. ACCEPTING GIFTS AND GRATUITIES

No City employee, without the consent of the City Council, shall receive any gifts or gratuities in addition to his/her salary for any service he/she may render as an employee except as may be provided elsewhere in the Employee Information Guide. This policy applies to gifts received under circumstances in which it could be inferred that the gift was intended to influence him/her in the performance of his/her official duties or was intended as a reward for an official act on his part. A gift is defined as any benefit, favor, service, privilege or thing of value that could be interpreted as influencing an employee's impartiality. A gift includes, but is not limited to, meals, trips, money, loans, rewards, merchandise, foodstuffs, tickets to sporting or cultural events, entertainment, and personal services or work provided by City suppliers or contractors. This policy is not intended to prohibit the acceptance of items of nominal value that are distributed generally to all employees. A determination as to whether this policy has been violated is in the City's sole discretion.

N. TOBACCO POLICY

The City of Chattanooga is committed to promoting a healthy environment for its staff and visitors without the hazards associated with tobacco products. The use of tobacco and non-tobacco products designed and used as a substitute for a tobacco product; including but not limited to cigarettes, cigars, pipes, electronic nicotine delivery systems (e-cigarettes), vaporizing devices, smokeless tobacco, snuff and chewing tobacco is prohibited in any enclosed areas of City buildings. This includes, but is not limited to, common areas, hallways, meeting rooms, offices, restrooms and city vehicles and equipment, as well as any area enclosed by garage type doors on one or more sides when all such doors are completely open. Tobacco users are responsible for ensuring that all tobacco activity, including the

lighting and discarding of cigarettes, takes place at least fifty (50) feet from the doors, windows and ventilation systems of City of Chattanooga buildings to avoid infiltration of smoke into the buildings and only during approved break or lunch periods. All materials used for tobacco, including cigarette butts and matches, should be extinguished and disposed of in appropriate containers. Violators of this policy are subject to disciplinary action.

The City's onsite wellness center offers a Tobacco Cessation Program for employees covered by the City's health plan. Additionally, the Tennessee Tobacco Quitline is a toll free telephone service that provides personalized support for Tennesseans who want to quit the use of Tobacco. Employees may call the Tennessee Tobacco Quitline at 1-800-QUIT-NOW (1-800-784-8669) or online coaching is available at www.TNQuitline.com.

O. PERSONNEL/HUMAN RESOURCES RECORDS

All accounts and records, including papers, books, documents, memoranda and reports of all kinds in any departments or offices of the City shall be open to public inspection at all reasonable times except as otherwise provided by state statutes.

Personnel records for each employee are kept on file and maintained in a secure manner by the Human Resources Department. The personnel file may contain, but not be limited to, the following information:

1) Personnel action forms noting position and wage information;

2) Performance evaluation forms and other documentation related to an employee's job performance;

3) Employment documentation including application and resume, employee data sheet, and income tax deduction forms;

4) Outside employment forms;

5) Official commendations, training and education records including certificates and diplomas;

6) Complete documentation pertaining to all disciplinary matters and corrective actions;

7) Information relative to grievance proceedings, and complaints of discrimination and harassment filed by the employee; and

8) Information regarding terminations, letters of resignation and retirement notices.

Any of the above documents and any additional documents such as change of address, telephone number, marital status, military orders, beneficiaries, dependents, or completed education/training should be submitted to the Human Resources Department in a timely manner.

The Human Resources Department also maintains the pension, retirement, and personal leave records for each employee. All medical records shall be kept in a separate confidential file for each employee. Medical information obtained from City provided medical

examinations are the property of the City of Chattanooga. Inquiries will be maintained in a confidential file system separate from an employee's official personnel record. Information may include without limitation the following: benefit documentation such as health insurance and retirement forms, fitness for duty examinations, drug testing results, medical information related to leaves of absence, inoculation records, etc. These documents will be maintained in a confidential file system that is not open for public inspection. Injury on Duty (IOD) documents will be maintained in the same medical file system under separate cover. These procedures are in accordance with the confidentiality requirements of the Health Insurance Portability and Accountability Act (HIPAA), Americans with Disabilities Act (ADA), Family Medical Leave Act (FMLA), rules and regulations of the Equal Employment Opportunity Commission (EEOC), and the Tennessee Open Records Act (TORA).

Each employee is responsible for updating personal information in his/her personnel file by notifying the Human Resources Department of any information changes. 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.

The following basic principles will be applied in collecting and retaining personal information:

1. The Human Resources Department may maintain a complete (master) file of each employee's records, which will contain necessary information, as determined by the Human Resources Director.

2. All documents maintained in the employee's official personnel file are subject to the records retention periods set forth in the Municipal Technical Advisory Service (MTAS) Personnel Records Retention Schedule.

3. Each Department Head or designee may maintain a secure file on each employee that includes performance evaluations, attendance records, notes, memos, letters, or other information related to an employee's employment history. However, all of these documents must also be forwarded to the Human Resources Department in a timely manner for inclusion in the employee's official personnel file.

4. Payroll data may be kept separately from the human resources file and the departmental file, although both may include information about an employee's salary history.

5. Employee information may be collected from employees whenever possible, but the City may use outside sources for other information.

6. Information in the personnel file, including salary information, shall be given to prospective employers, lending institutions, and other persons and entities seeking information for employment, credit or other business purposes with a written request from the employee. Under Tennessee laws, personnel records are considered public records under TORA and may therefore by inspected,

extracted, or copied by any citizen of the state during normal business hours.

The Human Resources Department requires that a request for inspection or copying any personnel file be directed to the Office of the City Attorney, Public Records Officer. Tennessee residents shall be required to make an appointment, and show identification verifying state residency. A representative of the City shall be present at all times when any personnel file is reviewed. Pursuant to T.C.A. § 10-7-504, portions of an employee's personnel record and information submitted by applicants shall be treated as confidential and not open for public inspection. Confidential information includes social security numbers, home addresses, home and personal cellular telephone numbers, personal/non-government email addresses, bank account information, performance evaluations, and driver's license information, except where driving or operating a vehicle is part of the employee's job description or job duties or incidental to the performance of their job, and medical records of employees receiving medical treatment, in whole or in part, at the City's expense. The same information concerning the employee's immediate family or household members is also considered confidential with restricted access.

Employees' Access to Personnel Records and Management Files:

Under normal circumstances, employees may have access to their personnel files. The basic guidelines for access are as follows:

1. Employees may review their personnel file. If the employee disagrees with any information found therein, the employee may place a written disagreement, which will be attached to the specific document, in the files;

2. An employee desiring to access the personnel file of another employee must follow the procedures for open records requests; and

3. When employees wish to review their personnel files, they may submit a written request to the Human Resources Department at least twenty-four (24) hours prior to the requested review date.

Employees must review the file in the presence of a designated HR representative. Employees may take notes and may request a copy of any of the file's contents subject to the City's policy on copy charges. Any questions about the information's accuracy shall be referred to the Human Resources Department. Employees may submit a note of disagreement to the Human Resources Department and a form on which disagreements may be expressed shall be provided.

Management Access to Personnel Files:

Individuals in an employee's direct chain of command, employment counselor, and other Human Resources Department personnel in the course of their duties may be given access to an employee's personnel record without notification to the employee.

Disclosure of Employee Records and Information:

The content of employee personnel files is open to public inspection under the Tennessee

Open Records law; however, some personal information has been deemed confidential under state and federal law. Only the Human Resources Director is authorized to disclose information about employees to outside inquirers. Confidential information shall only be disclosed under the following circumstances:

1. Properly identified and duly authorized law enforcement officials when investigating allegations of illegal conduct by employees;

2. Legally issued summonses or judicial orders, including subpoenas and search warrants; and

3. Others as legally allowed by state and federal law.

Inquiries for detailed employment information or public inspection of employee records shall be made in writing and directed to the City Attorney's Office who will then forward the request to the appropriate departments. Police Department Records and Reports may be exempt by reason of certain regulations, and all requests will be reviewed by the Chief of Police on a case by case basis, and will comply with Tennessee Law. The appropriate personnel shall respond to requests as promptly as possible, and then the City shall make the record available within seven (7) business days, deny the request in writing, or furnish the requestor a completed records request response form stating the time reasonably necessary to produce the record or information.

Confidential information will be redacted out of any personnel files that are requested for inspection, as per Tennessee Law. Adequate time will be allotted to allow for redaction of such information as allowed by law. All requests will be completed promptly, and in a responsive and timely manner.

In all such matters, the employee will be notified within seventy-two (72) hours of the records request. Exceptions may be made to release limited general information, such as the following:

1. Employment dates;

2. Position title; and

3. Work location.

P. ETHICS

The Code of Ethics applies to all City employees, including elected and appointed officials and employees. It is essential that the highest ethical standards be maintained by the City to ensure the proper performance of government business and to instill confidence in the citizenry regarding the operation of government. It is also important to provide clear guidance to employees at every level of government about the standards to which they should adhere regarding the acceptance of gifts and conflicts of interest.

Each employee shall avoid any action which might result in or create the appearance of:

1. Using a public office for private gain;

2. Preferential treatment to any person in contradiction with the best interests of the City;

3. Impeding government efficiency or economy;

4. Failing to maintain appropriate independence or impartiality; and

5. Affecting adversely the confidence of the public in the integrity of the City of Chattanooga.

It is the duty of every City employee to report, directly and without delay, to their supervisor, Chief Ethics Officer (City Attorney), or City Auditor any and all information concerning conduct which they know or should reasonably know to involve corrupt or other criminal activity by: An official or employee, which concerns his or her office or employment or persons dealing with the City, which concerns their dealings with the City.

The knowing failure of any official or employee to report as required above shall subject the official or employee to disciplinary action. A report made to the ethics hotline shall be considered a report to the City Auditor.

Ethics Pledge

The following persons shall comply with the requirements of this Section:

1. Any person who serves as an employee in the Office of the Mayor or any Department Head reporting to the Mayor; and

2. Any person who is appointed by the Mayor to a statutory board, commission, authority, or agency on or after February 4, 2014.

As a condition of employment or appointment, any person meeting the requirements above shall sign, and upon signing shall be contractually committed to the following pledge:

> "As a condition, and in consideration, of my employment or appointment by the City of Chattanooga in a position of the public trust, I hereby acknowledge and agree to abide by the City of Chattanooga's Code of Ethics which I understand is binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by my government service."

Any person required to sign a pledge under this Section shall file such pledge with the Chief Ethics Officer within fourteen (14) days of commencing employment or appointment.

Any department of the City may establish such additional ethics guidelines and standards consistent with this policy as may be lawfully applied and may in the opinion of the Department Head be appropriate for the proper operation of the department. Further, the

Human Resources Director and the Chief Ethics Officer must approve additional ethics guidelines and standards. Such additional standards should also be filed with any other person required by law as soon as practicable after adoption.

Q. TECHNOLOGY USE AND EXPECTATIONS

Computers, the Internet, e-mail and other technology should be used to maximize the City's efforts in serving its citizens. It is every employee's duty to use the City's computer resources and communication devices responsibly, professionally, ethically and lawfully. All employee correspondence in the form of electronic mail, including computers, computer files, software, Internet access, voice mail, texts and other communications, are public records under the Tennessee Public Records Act and may be subject to public inspection under the law.

Use of City owned technology is a privilege that may be restricted or revoked at any time. Users expressly waive any right of privacy in anything they create, store, send or receive using technology and consent to allowing the City to access and review all materials users create, store, send or receive using technology.

Material that is, or could reasonably be regarded as, derogatory or discriminatory on the basis of age, sex, race, color, religion, disability, national origin, protected veteran or military status, sexual orientation, gender identity, ethnic origin, political affiliations, genetic information, marital status or any other protected basis in accordance with applicable federal, state and local laws, or is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory or otherwise unlawful, may not be sent, displayed or stored by any method of City owned or approved technology.

All City employees are expected to follow the rules, regulations and procedures outlined in the IT Comprehensive Technology Use Manual. Employee violations of any of the provisions outlined in this policy and/or the IT Comprehensive Technology Use Manual may be subject to disciplinary action.

R. RECOGNITION OF EMPLOYEE REPRESENTATIVE GROUPS

While employees have the right to join labor organizations, union activity shall not interfere with the proper and sound operations of the City. Department Head or designee approval shall be required for union activities during working hours. Meetings between City employees and union representatives shall be before or after regular scheduled working hours and during breaks and lunch periods unless otherwise approved by the Mayor or designee. City equipment and materials may be used to conduct union business with prior approval from the Department Head or designee. No City employee shall be a party to, participate in or instigate a strike against the City.

S. WHISTLE BLOWER PROTECTION

The purpose of this policy is to establish protection by confidentiality for City employees who report illegal, improper, wasteful or fraudulent activity in good faith.

Confidential Reports

All City officials, appointees, and employees are required to report any instances of suspected waste, abuse, fraud or other illegal acts upon becoming aware of such suspect activity or issues within City government.

The City maintains a telephone hotline number providing any employee, vendor, or member of the public the ability to anonymously and confidentially report any suspected fraud, waste, abuse, illegal or unethical behavior. The hotline is operated by a third party with no caller ID function and no web tracking features. This hotline number is 1-877-338-4452. The Audit Committee has oversight of the hotline's administration. In addition to a telephone hotline, web reporting may be utilized at www.reportlinewebb.com/chattanooga. The City Auditor may also be contacted via e-mail at ssewell@chattanooga.gov. The City's Chief Information Officer shall ensure a prominent link to the City's hotline information is posted on the City's main web page.

The audit working papers of the internal audit staff including those regarding illegal, improper, wasteful or fraudulent activity or any investigation of illegal, improper, wasteful or fraudulent activity are confidential pursuant to T.C.A. 4-3-304(7) and T.C.A. 10-7-504(a)22, and, therefore, not open to public inspection. This law is a tool the City's internal audit function can utilize to maintain confidentiality. However, employees must recognize that there are no guarantees that confidentiality will be absolute. An example of when such confidentiality may be breached would be by order of the court. For employees wishing to minimize such risks further, the hotline does allow for anonymity. However, even though the hotline provides for anonymity, once an investigation begins, it is possible that co-workers or others who are familiar with the situation may be able to guess the reporters identity.

While an active investigation is being conducted, the Audit Committee shall keep all information confidential. When an investigation results in a criminal indictment or arrest, it shall be considered active until disposed of by the judicial system. This shall not be construed to limit those conducting an actual investigation from revealing or discussing information as necessary to facilitate said investigation.

Nothing in this policy shall be construed to limit, discourage, or prevent employees from reporting inappropriate or unethical activities directly to their supervisor, Department Head, the Mayor, the Human Resources Department or the Office of Internal Audit. Upon being notified of or becoming aware of suspected waste, abuse, fraud, or other illegal acts by a subordinate, the supervisor must report the issue to the Office of Internal Audit directly or via the City's hotline.

Employee Protection

Employees of the City of Chattanooga shall be protected from being disciplined, discharged, or subjected to threats thereof, or otherwise discriminated against in retaliation for bringing forth, in good faith, charges of fraud, unlawful conduct, unethical conduct, or conduct in violation of any City policy, directive, ordinance, or Charter provision by any official, employee, appointee, contractor, or vendor of the City.

Good faith is established if an employee had a reasonable belief that an official, employee,

appointee, contractor, or vendor of the City engaged in fraud, unlawful conduct, unethical conduct, or conduct in violation of a City policy, directive, ordinance, or Charter provision. An employee will not have protection under this Section if they were the subject of an ongoing or existing disciplinary action or investigation prior to filing a report of fraud, unlawful conduct, unethical conduct or conduct in violation of any City policy, directive, ordinance, or Charter provision.

An employee who knowingly or with reckless indifference to the truth, makes a false report shall be subject to disciplinary and legal action.

Employees who believe they have suffered retaliation must file a detailed written report within thirty (30) days from the date of the alleged retaliatory action or when the employee first had knowledge of alleged retaliatory action. The report must be filed with the City Auditor, the Director of Human Resources, and the Chair of the City Council. The written report must include all the relevant facts concerning the alleged retaliatory action including:

1. The name and work address of the complainant;
2. The name and title of each City employee against whom the complaint of retaliation is made;
3. The specific type and date of retaliation;
4. A statement as to the facts that form the basis of the complaint of retaliation; and
5. A statement of the complainant's explanation of how his/her reported allegation of fraud or misconduct and/or participation in an investigation, proceeding, or hearing is related to the retaliation.

All complaints alleging retaliation shall be promptly investigated by the Human Resources Department. However, the Office of Internal Audit shall not be prevented from conducting an investigation. In the event that the City Council determines that an investigation conducted by City staff would present a conflict of interest, an independent investigator may be appointed by the Audit Committee.

Those involved in initiating, recommending, imposing and/or implementing disciplinary action against the employee shall not be in violation of this Section if they can demonstrate they had no knowledge that a report of fraud, unlawful conduct, unethical conduct, or conduct in violation of any City policy, directive, ordinance, or Charter provision had been filed by the employee prior to initiating disciplinary action against the employee.

T. REPORTING ARRESTS, CHARGES, INDICTMENTS

Reporting Requirements

Any City employee arrested, charged or indicted for a crime, other than a minor traffic offense, shall report such arrest, charge or indictment to their respective Department Head within one (1) business day. In the case of an employee who is incarcerated, a member of his/her immediate family shall contact the Department Head on behalf of said employee.

Failure to report an arrest, charge or indictment for a crime within the time specified shall result in disciplinary action up to and including termination of employment.

Employees are required to provide documentation for an arrest or charge for a Class A misdemeanor or felony upon request to the Department Head.

Employees charged or indicted with a crime shall be required to inform their Department Head within one (1) business day on the outcome of the criminal case.

Arrests, Charges or Convictions Related to Duties or Responsibilities of Employees

In the event a nexus occurs between the nature of the arrest, charges or indictment to the employees' duties and responsibilities of their position, the Mayor or Department Head shall have the option of terminating the employment of said employees. A judgment on a verdict or a plea of guilty or nolo contendere for employees arrested, charged or indicted for a Class A misdemeanor or a felony shall result in termination of employment.

Any employee convicted of any misdemeanor committed in the course and scope of his or her duties as a City employee shall be subject to disciplinary action. Such disciplinary action may include dismissal if in the opinion of the Mayor or the Department Head, after taking all mitigating factors into consideration, the conduct of the employee requires dismissal. Any employee convicted of a misdemeanor and incarcerated for fifteen (15) consecutive days or more shall be dismissed.

Other Arrests, Charges, Indictments

Any such employee arrested and charged with a Class A misdemeanor or felony shall be placed on administrative leave with pay for a maximum of eight (8) business days to allow the City time to review the nature of the crime, the facts and circumstances.

If the nature of the crime, the facts and circumstances are substantiated by the City, employees arrested, charged or indicted for a Class A misdemeanor or a felony shall be placed on leave without pay. The period of leave without pay for employees arrested, charged or indicted on criminal charges shall not exceed six (6) months. In extenuating circumstances, an employee may request a thirty (30) day extension of leave without pay up to a twelve (12) month maximum of leave without pay. The request must be authorized by the Department Head. At the conclusion of the leave period, the Department will determine whether disciplinary action is warranted.

If any employee is found guilty of a Class B or greater misdemeanor which would have otherwise disqualified such employee for employment in the position currently occupied, such employee shall be subject to disciplinary action or an employment status change to another employment position, if available, for which such employee is qualified notwithstanding the misdemeanor conviction.

Any employee who commits a verifiable action based on gross misconduct shall be

dismissed.

If an employee has a Class A misdemeanor or felony charge reduced to a lesser misdemeanor charge, disciplinary action may be taken against the employee. If an employee is arrested, charged or indicted on a Class A misdemeanor, a felony or any other misdemeanor has said charges dismissed for whatever reason and is on a leave with or without pay, such employee shall be returned to duty unless there is sufficient evidence to show that the employee is not a fit or suitable employee, then he or she shall be dismissed.

An employee placed on unpaid leave for up to six (6) months of time immediately following an arrest, charge, or indictment shall have the maximum of six (6) months of back pay or leave restored if charges are dropped or is found not guilty. This provision shall not apply if an employee pleads guilty or enters into a plea agreement on said charges.

If a former employee arrested, charged or indicted on a Class A misdemeanor, a felony or any other misdemeanor has said charges dismissed for whatever reason and was terminated, such employee may apply for an available advertised position for which he/she meets the minimum qualification and shall be treated as any other applicant.

SECTION X - SEPARATIONS

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: resignation, reduction-in-force, disability, retirement, death and dismissal. At the time of separation and prior to final payment, all records, assets, and other City property in the employee's custody must be returned to the department. Any amount due because of shortages shall be withheld from the employee's final compensation. Reimbursement cannot result in the employee being paid less than the federal minimum wage.

B. RESIGNATION

Resignation occurs when an employee chooses to end employment with the City. In such a case, employees will be expected to return all City equipment assigned. An unauthorized absence from work for a period of three (3) consecutive working days may be considered a resignation as a result of job abandonment.

C. REDUCTION-IN-FORCE

Department Heads have been charged with the responsibility of restructuring their departments to eliminate those positions not essential to the mission of the department. A goal is to accomplish the reduction in force without any change in the level of services rendered to the citizens of Chattanooga. This may require a reorganization of the responsibilities of those employees who remain.

Any City employee may be laid off for lack of work or lack of funds without a reflection on

his/her standing. At least two (2) weeks' written notice of the effective date of the layoff shall be given to each employee affected, with the exception of seasonal or temporary employees, specifically stating the reason for the layoff. Such notice shall be signed by the Department Head or designee.

Regular employees shall not be laid off until all part-time, temporary and seasonal employees occupying the same class are laid off, unless the non-regular employees' jobs are not funded solely by the City. Employees affected by the reduction in force may apply for consideration for other vacant positions for which they qualify. Affected employees may also apply for employment with the City for any advertised vacancy for which they are qualified, including internal job postings for a period of two (2) years from the reduction in force.

The primary criterion for selection of those positions and employees affected by the reduction in force is based on whether the positions are critical to meeting the goal of maintaining the current level of service. Evaluation records may be used in determining which employees shall be laid off when two (2) or more employees are basically qualified to fill one (1) position. Also, seniority may be used as a criterion, at the discretion of the Mayor, or any other objective criteria that has a rational basis and is not inconsistent with state or federal law.

Nothing in this policy limits in any way an employee's right to retire, resign or to utilize the City's grievance policy. An employee notified of his/her dismissal shall be provided the opportunity for an informal hearing before the Department Head while in a pay status. The only issue relevant in such a hearing is the City's failure to comply with the criteria and procedures set forth in this policy or other applicable law. The employee and his/her representative shall be afforded the opportunity to explain why they should not be terminated. The Department Head shall provide a written response to the issues raised by the employee.

D. DISABILITY

Short term disabilities do not often result in termination of employment. However, some short term disabilities are severe enough to become long term disabilities. Benefit programs are available for addressing the short term disability, including insurance products offered at open enrollment and Family and Medical Leave. If the disabling condition is not resolved in the short term, it may become a long term disability.

Long term disabilities may arise from injuries suffered on or off the job or from medical conditions that may or may not be related to the job. If an employee meets the definition of disability as defined in the long term disability policy, the employee may apply for Long Term Disability (LTD) benefits. The waiting period for LTD benefits for those persons participating in the General Pension Plan is six (6) months or 180 days. For employees other than Fire and Police, the disability waiting period can be satisfied in whole or in part during the time the employee is receiving short term disability or FMLA benefits. To be approved for LTD benefits, the employee is required to separate from service during the period of long term disability. Employees participating in the Fire and Police Pension Fund should refer to the Plan Administrator for the details regarding their disability benefits.

Generally, an employee may be separated from employment with the City for a disability when he/she cannot perform the essential functions of the job due to a physical or mental impairment that the City cannot accommodate without undue hardship or that poses a direct threat to the health and safety of others. Reasonable accommodations of the disability may be made in certain circumstances, depending upon the particular impairment and the essential functions of the job. Reasonable accommodations may include a transfer to a comparable position for which the individual is qualified, job restructuring, light duty and/or physical restructuring of the workplace. The City may be unable to make accommodations for certain jobs due to the nature of the essential functions of the job.

For reasonable accommodations to be considered, the employee must initiate a request for an accommodation and submit acceptable medical documentation to the Director of Risk Management or designee. The medical evidence must show that the disability prevents the employee from performing the essential functions of the job. The City may require an examination at its own expense to be performed by a licensed physician of its choice. If there is a disagreement, the employee may request a second examination be performed at the employee's expense. In the event of a disagreement in the two opinions, a third opinion may be obtained with both parties sharing the cost of the examination. The Manager of Occupational Health and Wellness, along with the Department Head and Director of Risk Management, shall determine if the employee can perform the essential functions of the job or if other reasonable accommodations can be provided.

E. RETIREMENT

Retirement is defined as voluntary withdrawal from City employment by an employee eligible to receive retirement. The employee who wishes to commence retirement should give notice to his/her supervisor to initiate the separation from service. The notice should give the supervisor ample time to make arrangements for the work of the departing employee to be done.

In the General Pension Plan, a participant who reaches one of the following milestones may elect to retire.

1. Has attained the normal retirement age sixty-two (62) or greater,

2. Has vested and has decided to terminate early and commence retirement at some point between the age of fifty-five (55) and the normal retirement age of sixty-two (62) with a reduced benefit, or

3. Has fulfilled the requirement for 'Rule of 80' retirement and has elected to retire prior to the normal retirement age of sixty-two (62) with full benefits.

If the employee participates in the Fire and Police Pension Plan, the retirement eligibility operates differently and years of service will be important to consider. A Fire and Police

Pension Plan participant will need a minimum of twenty-five (25) years of pension credit service to retire with unreduced benefits. There are additional accruals to the formula for each year of additional service up to thirty (30) years. Additional restrictions based on age or retirement with reduced benefits may apply. Please refer to the Summary Plan Description for more details.

The employee wishing to retire should make an appointment with the Plan Administrator for the pension plan in which he or she participates to review current benefit calculations and explore options.

When an employee becomes vested in the General Pension Plan, after earning 60 pension credits, he or she may contact the Human Resources Pension Analyst to obtain current benefit projections or use the calculator available on the website **http://www.chattanooga.gov/general-pension-plan** to estimate the future retirement benefit under various scenarios.

If the employee has questions about the benefit program or specific benefits, he or she may contact as appropriate the Pension Analyst or the Employee Benefits office.

For employees qualifying for a DROP, there is a required form indicating how the DROP benefit will be paid – either as a lump sum or a rollover to a traditional IRA or similar tax deferred account. Benefits are taxed immediately in the lump sum election but taxes continue to be deferred until funds are withdrawn in the rollover election. Please refer to the plan booklet or description for your pension plan for information on DROP benefits.

For employees qualifying for continuation of health insurance benefits into retirement, there is a form providing the rate quote for the benefit election at retirement to authorize deduction of the premium from the retirement benefit payment. Please refer to the material for Retiree Health Benefits in the Employee Benefits section of this Guide.

An employee who has vested his/her benefit in the General Pension Plan and transfers employment under provisions of the Fire and Police Pension Plan will have the right to vest in the Fire and Police Pension Plan with five (5) years of pension credit service. Contact the Pension Office at (423) 893-0500 or www.cfppf.org for details.

F. DEATH

When the unexpected death of an active employee occurs, the employee will be separated from service effective on the date of death of the employee. Certain benefits based upon employment may be payable:

1. Tennessee law provides that an employee may designate a beneficiary to receive payment for any remaining wages owed at the time of death. All unpaid compensation shall be paid to the employee's designated beneficiary(ies) according to the designation on the Wages Payable Upon Death form. In the absence of a designated beneficiary, amounts due shall be paid to the estate of the employee, except for any amounts that by law must be paid to the surviving spouse.

2. Death benefits payable under the City's Group Term Life Insurance Plan and the Accidental Death and Dismemberment Rider, if applicable, will be paid to the designated beneficiary(ies) in a timely manner after the date of death and upon receipt of the appropriate documentation.

The deceased employee may have been a participant of either the General Pension Plan or the Fire and Police Pension Fund. Death benefits may be payable from the pension plan depending upon the status of the employee in the plan.

General Pension Plan

If a participant in the General Pension Plan dies before he or she has a vested benefit in the plan, the beneficiary is entitled to the return of contributions the participant made into the pension plan.

If a participant in the General Pension Plan dies after he or she has a vested benefit in the plan, and the participant has completed a pre-retirement option election, then the retirement benefit will be calculated according to that optional payment election. If no pre-retirement election has been made, the beneficiary is entitled to receive either the return of contributions the participant made to the pension plan or an annuity payable for ten years calculated as if the participant had elected a life annuity with ten years certain as the retirement benefit. The benefit shall be payable as though he or she had been entitled to have the optional benefit commence on their date of death.

Fire and Police Pension Plan

Beneficiaries of sworn Firefighters and Police Officers who are participants of the Fire and Police Pension Fund are eligible for a ten-thousand dollars ($10,000.00) lump sum death benefit through the Fund. Participants must notify the Fire and Police Pension Fund of any changes in beneficiary in writing and complete the appropriate form(s). Contact the Fund office at (423) 893-0500 or **www.cfppf.org** with any questions. Additional periodic death benefits may be available to the spouse or dependents of participants in accordance with current Pension legislation.

G. EXIT INTERVIEWS

All employees who are separating from employment with the City are encouraged to schedule an exit interview with the Employee Relations Coordinator in the Human Resources Department. The employee may complete an in-person interview or complete a paper or online exit interview survey. The purpose of exit interviews is to ascertain information pertaining to the employees' experiences and the factors that contributed to their leaving the City. Data from exit interviews may be used to help improve human resource management practices such as recruiting, training, and working conditions. Additionally, the exit interview provides information that may show trends in voluntary terminations and help guide efforts

to improve areas that may be leading to turnover.

H. TERMINATION OF EMPLOYMENT RELATIONSHIP

An employee who desires to resign in good standing is encouraged to submit a written resignation at least two (2) weeks in advance, setting forth his/her reasons for resigning. Whether or not the two-week notice will be honored is at the Department Head's discretion.

Employees with up to six (6) months' service may be given one (1) weeks' notice of dismissal and employees with more than six (6) months' service may be given two (2) weeks' notice of dismissal except that, if in the discretion of the supervisor the interests of the City will thus be best served, payment of compensation for the notice period may be made in lieu of continued work for that period; provided, however, that, when a supervisor terminates an employee for cause, the employee shall not be entitled to compensation for the notice period.

Whenever an employment relationship is terminated, the employee shall receive pay for any accrued personal leave at the regular rate the employee is earning upon termination, provided, however, that no such payment shall be made which would increase such employee's pension benefit; in the event an employee is entitled to payment for accrued personal leave which would have the effect of increasing his or her pension benefit if paid in a lump sum upon termination, the City shall pay to such employee upon termination of employment a lump sum payment for a portion of such personal leave which would not have the effect of increasing such employee's pension benefit, and the balance of such pay for accrued personal leave shall be due and payable in January of the next calendar year. Accrued personal leave shall not be counted as part of the employee's "credited service" for pension purposes under the general pension plan. At time of payment for personal leave, accrued personal leave shall not have deductions made for the general pension plan. Payment of personal leave shall not exceed the annual maximum payable as outlined in the Leave section of the Employee Information Guide.

Except as otherwise provided in the Uniform Services Employment and Re-Employment Rights Act of 1994, if the employment of a member of the Fire or Police Department is terminated for any reason, or if the member is on leave without pay for a period in excess of ninety (90) consecutive days, said member shall be entitled to receive at the time of said termination or leave one-hundred percent (100%) of whatever sums he or she contributed to the pension fund. If such member is subsequently reemployed in the fire and police department, he or she shall at the time of reemployment reimburse the fund to the full extent of the amount he or she received from the fund upon said termination with interest compounded annually and computed at the rate utilized in the actuarial evaluation of the Pension Fund during their periods of absence from the date of said withdrawal to the date of reemployment. Any such employee withdrawing monies from the fund pursuant to the provisions herein shall not be eligible for reinstatement or reemployment in the fire and police department until they shall have paid back the said monies.

Except as otherwise provided in the Uniform Services Employment and Re-Employment Rights Act of 1994, if the employment of a member is terminated for any reason, or if the

member is on leave without pay for a period in excess of ninety (90) consecutive days, said member shall be entitled to receive at the time of said termination or leave one-hundred percent (100%) of whatever sums he or she contributed to the Pension Fund. If such member is subsequently reemployed in the Fire or Police Department, he or she may at the time of reemployment reimburse the Pension Fund to the full extent of the amount he or she received from the Pension Fund upon said termination with interest compounded annually and computed at the rate utilized in the actuarial evaluation of the Pension Fund during their periods of absence from the date of said withdrawal to the date of reemployment. Any reimbursement of amounts received upon prior termination shall be made by the date of reemployment and may be reimbursed thereafter. If a member who is subsequently reemployed does not reimburse the Pension Fund, such member shall be treated as a newly hired member for purposes of the Pension Fund.

Except as otherwise provided in the Uniform Services Employment and Re-Employment Rights Act of 1994, a member who has completed ten (10) or more years of active service at the time of his or her termination of employment, or at the time he or she has been on leave without pay for a period in excess of ninety (90) consecutive days, shall have the right to either (1) or (2) as follows:

1. Rights to receive a one-hundred percent (100%) refund of whatever sums he or she contributed to the Fund. If such member is subsequently reemployed in the Fire and Police Department, he or she shall at the time of reemployment reimburse the Fund to the full extent of the amount he or she received from the Fund upon said termination with interest compounded annually and computed at the rate utilized in the actuarial valuation of the Fund from the date of withdrawal to the date of reemployment. Any reimbursement of amounts received upon prior termination shall be made by the date of reemployment and may not be reimbursed thereafter. If a member who is subsequently reemployed does not reimburse the Pension Fund, such member shall be treated as a newly hired member for purposes of the Pension Fund.

2. A right to leave his or her contribution in the Fund and be eligible to receive after reaching fifty-five (55) years of age a monthly deferred vested retirement benefit equal to 2.4% of his or her Average Base Salary as computed over the highest three (3) years of pay during the member's years of service for each year of active service, subject to a maximum of twenty-five (25) years.

SECTION XI – COUNSELING, DISCIPLINE AND GRIEVANCE PROCEDURES

A. COUNSELING

Supervisors are expected to provide timely and appropriate feedback to employees when performance tasks or behavior becomes a concern. This feedback is usually verbal, specific

and held in a confidential setting. If a pattern of poor performance continues, or if an employee is unaware or needs clarification of a procedure, policy or process the supervisor may document the concerns in a Letter of Counseling. The Letter of Counseling is not considered to be discipline but failure to make improvements or continued lack of understanding may require a Performance Improvement Plan (PIP) and/or will begin the Progressive Corrective Action Process. A Letter of Counseling will be administered by supervisors to assist employees with performing their jobs properly. A rule violation which reflects a work performance, conduct, or attendance problem may be the subject of a Letter of Counseling. The object is to communicate to the employee that a problem exists and develop effective solutions to the problem. The supervisor will maintain a copy of the Letter of Counseling in the supervisor's departmental file and forward the original to Human Resources for inclusion in the employee's personnel file. If a Letter of Counseling is administered, the supervisor shall provide follow up documentation within six (6) months of the Letter of Counseling to track progress and document performance improvement or continued areas for improvement.

Performance Improvement Plan (PIP)

The Performance Improvement Plan (PIP) is a proactive approach to identifying, analyzing, and addressing performance issues before they deteriorate to the point of necessitating corrective action. The PIP is designed to facilitate constructive discussion between an employee and his/her supervisor and to clarify the work performance to be improved. A PIP is not a required part of the Progressive Corrective Action Process. A PIP may be used as a coaching tool for employees with performance concerns that do not warrant the Progressive Corrective Action Process, or may be used in conjunction with the Progressive Corrective Action Process if additional assistance is necessary in assisting the employee to meet performance objectives. The Human Resources Director or designee may be consulted in the development and implementation of a PIP as needed.

1. The PIP process should address performance discrepancies, provide the employee an opportunity to improve his/her performance, and monitor progress throughout the established improvement period.

2. The goals and objectives of the PIP should be measurable, specific, achievable, relevant and time-bound.

3. While a PIP is in place, the supervisor will meet with the employee on established periodic review dates to discuss progress made toward stated performance goals and objectives.

A PIP will remain in effect for the length of time deemed appropriate based on the improvement goals and standards necessary to meet a satisfactory level of performance, which generally should not exceed ninety (90) days. A PIP will remain a permanent part of the employee's official personnel file.

B. DISCIPLINARY ACTIONS

Disciplinary action is necessary from time to time in order that the City operate in an effective and efficient manner. Disciplinary action may take the following recognized forms: Progressive Corrective Action, suspension, demotion, or dismissal.

Disciplinary action up to and including dismissal may be taken for any just cause including, but not limited to, the following:

1. Incompetence or inability to perform duties of position.
2. Inefficiency or negligence in the performance of one's duties, abusive or negligent use of tools or equipment and/or careless or blatant waste of materials.
3. Theft, unauthorized removal, wrongful possession, or deliberate destruction of property, merchandise, equipment, or possessions belonging to citizens we serve, fellow employees, or the City.
4. Unlawful manufacture, distribution, dispensation, possession, sale, purchase or use of illegal drugs, controlled substances, or alcohol while on the job, on City owned or leased property or while operating City owned, leased, or controlled equipment or vehicles.
5. Fighting with, abusive or threatening conduct or speech toward any citizen we serve, fellow employees or supervisors.
6. Insubordination or refusal to obey or willful failure to carry out verbal or written instructions of supervisory personnel.
7. Failure to follow safety rules and/or health practices.
8. Improper parking of motor vehicles, reckless driving, speeding, and violation of motor vehicle laws while operating City vehicles or personal vehicles while conducting City business.
9. Possession or use of a firearm, illegal knife as defined by Tennessee law, explosive, and other prohibited weapon of any kind while on City owned, leased, or controlled property, or while operating City owned, leased, or controlled vehicles.

   Under Tennessee law, however, employees who have valid handgun carry permits are allowed to bring a firearm and ammunition onto the City's parking lot provided that the firearm and ammunition are kept in the employee's vehicle in accordance with Tenn. Code Ann. § 39-17-1313.

   The firearm and ammunition, however, may not be removed from the vehicle

while it is on City property. Removal of the firearm and ammunition from the vehicle may result in discipline, up to and including immediate discharge. The City will not discharge or take any adverse employment action against an employee solely for transporting or storing a firearm or firearm ammunition in an employer parking area in a manner consistent with § 39-17-1313(a).

10. Falsification or alteration of any official document, form or City record including time records, employment application, etc.

11. Excessive absenteeism or tardiness.

12. Unauthorized absence from the work area or unauthorized extended lunch or break periods.

13. Job Abandonment – unreported or improperly reported absences of three (3) consecutive scheduled workdays without directly notifying the appropriate supervisor on duty. This form of separation will be considered and reported as a voluntary resignation.

14. Disclosure of confidential information to unauthorized persons.

15. Dissemination of false or malicious information about the City, employees or the citizens we serve.

16. Sleeping during working hours.

17. Gambling on City premises or while conducting City business.

18. Substantiated acts of willful harassment including such conduct as slurs, jokes, intimidation, or other verbal or physical attacks upon a person for any reason.

19. Substantiated acts of discrimination that denies equal treatment in all terms, conditions, and privileges of employment as defined by applicable Civil Rights Laws.

20. Participating in a strike, work stoppage, work slow-down, sick-in or other so called job actions.

21. Conviction, plea of guilty or *nolo contendre* of a felony or misdemeanor or any activity that is inconsistent, incompatible or in moral, legal or technical conflict with the employee's duties, functions and responsibilities as a City employee

22. Engaging in conduct or acting in any manner, on or off duty that is unbecoming a public employee.

23. Failure to report reasons for absence or tardy on a timely basis and / or disregard for department time reporting procedures.

24. Failure to wear appropriate clothing or appearance on the job in consideration of safety, sanitation, and public contact.

25. Unauthorized distribution of literature and/or soliciting during working hours and during working time.

26. Posting unauthorized notices.

27. Violation or failure to follow the guidelines in this Guide or any department or City policy, procedure, ordinance, rule, regulation or law or violation of any applicable state law, rule or regulation subject to the provisions of these personnel policies.

Progressive Corrective Actions

When an employee's performance warrants formal disciplinary action, the supervisor may discipline the employee using a system of progressive corrective actions. This system of progressive corrective action is used to bring unacceptable conduct or failure to meet performance standards and expectations to the employee's attention and seek a solution that will lead to the employee's success. While this is designed to be a progressive process, some corrective action steps may be skipped depending on the severity of the performance issue. Department Heads also have the ability to discipline employees for more serious offenses through other means of disciplinary actions covered in this policy.

Progressive Corrective Action may result from an accumulation of minor infractions, from a single infraction, or the employee's failure to meet performance standards and expectations. Corrective Actions are to be initiated by the employee's supervisor in a timely manner and as soon as reasonable and will be reviewed by the appropriate Department Head prior to filing in the employee's personnel file.

Steps in Progressive Corrective Action Process:

1. First Written Reprimand - A supervisor shall meet with the employee, discuss the performance concern, and work together to find a solution. This solution will be documented in the First Written Reprimand and signed by both the supervisor and the employee. If the employee refuses to sign the document, the supervisor must make a statement to that fact on the document and initial. The employee will receive a copy if requested and the original will be filed in the employee's personnel file.

2. Second Written Reprimand - A new or repeated infraction will be documented on the Second Written Reprimand and signed by both the supervisor and the employee. If the employee refuses to sign the document, the supervisor must make a statement to that fact on the document and initial. The employee will receive a copy if requested and the original will be filed in the employee's personnel file.

3. Suspension - If unacceptable conduct continues or any other policy violations

occur, an unpaid suspension of up to thirty (30) days may be issued by the supervisor.

4. Dismissal - If unacceptable conduct continues or any other policy violations occur, the final step in the Progressive Corrective Action Process is dismissal.

Supervisors will always consult with the Human Resources Director or designee in determining the appropriate steps for corrective action. The steps, as listed, should normally be followed in order. There may be severe infractions or performance issues that may cause a supervisor to skip steps in this process, or if the performance issue is of a serious offense, to pursue other disciplinary measures such as suspension, demotion or immediate dismissal options. On these occasions the Department Head may initiate appropriate disciplinary measures and the Human Resources Director and Chief Operating Officer or designee will be consulted prior to taking action.

In accessing an employee's personnel file to determine the next step in the Corrective Action Process, the supervisor shall review and determine if the employee has any documented corrective actions within the previous twelve (12) months. Any corrective action older than twelve (12) months generally will not be considered in the Progressive Corrective Action process. However, if there is evidence of a pattern of behavior, all corrective actions may be considered in determining the appropriate step in the Corrective Action Process. The corrective action documents will not be removed from any personnel file unless the action is reversed by the Department Head, the Grievance Review Committee, or an Administrative Law Judge with documentation provided.

Disciplinary Actions – Serious or Repeat Offenses

The Progressive Corrective Action process does not eliminate the need for more punitive actions if the employee fails to make needed changes in his/her work performance. The circumstances surrounding an offense, such as the severity of the misconduct, the number of times it has occurred and any previous counseling, may suggest what action may be taken.

No City employee may be demoted, suspended or dismissed for political reasons or for any other unjust or arbitrary cause, or because of age, sex, race, color, religion, disability, national origin, protected veteran or military status, sexual orientation, gender identity, ethnic origin, political affiliations, genetic information, marital status or any other protected basis in accordance with applicable federal, state and local laws. This provision may not be interpreted to prevent the separation of an employee because of lack of funds or curtailment of work.

The Mayor or Department Head may, for just cause, discipline any City employee. Such disciplinary action may include demotion, suspension and / or dismissal. Unless otherwise provided in this Section, no such punitive suspension shall not exceed thirty (30) calendar days. The Department Head shall consult with the Human Resources Director or designee when disciplinary actions such as demotions, suspensions or dismissals may be warranted. Any demotion, suspension or dismissal of a City employee shall be reported to the City

Council. No employee in the classified service, excluding probationary employees, may be demoted involuntarily, suspended, or dismissed without having the opportunity to have a hearing before their Department Head or designee in which such employee shall be advised of the charges of misconduct and in which the employee shall be afforded an opportunity to be heard in response to such charges. The Human Resources Director or designee shall have the opportunity to be present at all Disciplinary Hearings.

A City employee who is demoted, suspended or dismissed shall be furnished with written charges within three (3) business days from such disciplinary action that specifically states the offenses with which such employee is charged. The statement of written charges shall be signed by the Department Head or designee, except that such charges as to the departments of fire and police must be signed by the Department Head. A copy of the written statement shall be placed in the employee's official personnel file.

Demotions

A Department Head may demote an employee to a vacant position in a lower pay grade for which the employee is qualified within the employee's department or within the City if a position is available after a Disciplinary Hearing. If the demotion is to a position outside the Department Head's responsibility, the Human Resources Director and both Department Heads shall collaborate to ensure the demotion is appropriate.

Suspension

A Department Head may suspend an employee without pay for up to thirty (30) work days after a Disciplinary Hearing. Personal (paid) leave may not be taken in lieu of the suspension.

Dismissal

Disciplinary separation from employment results when an employee does not immediately improve and maintain an overall satisfactory work record following lower levels of discipline or when an employee commits an act so serious that corrective discipline is inappropriate. Any employee who commits a verifiable action based on gross misconduct may be immediately placed on administrative leave with pay for up to five (5) business days by the Department Head or designee pending a Disciplinary Hearing.

Last Chance Agreement

When an employee's commitment to improve is not immediately met and sustained during the Progressive Corrective Action Process and dismissal is imminent after a Disciplinary Hearing, the Department Head or his/her designee may offer the employee the opportunity to correct unacceptable behavior(s) in lieu of dismissal by signing a Last Chance Agreement. The Last Chance Agreement shall specify the employee's unacceptable behaviors which need to be corrected. The Last Chance Agreement shall also state that the employee will not be dismissed for the specified unacceptable behavior(s) unless subsequent violation(s) of the unacceptable behavior(s) listed shall occur again in a set time period. If subsequent

violation(s) of the unacceptable behavior(s) occur during the time period specified, the employee will be immediately dismissed following a Disciplinary Hearing, and the employee waives his/her right to appeal the dismissal by requesting a review to the City Council or appealing in a court of law. Before the Last Chance Agreement can be enforced, evidence of the subsequent violation(s) of the specified unacceptable behavior(s) must be presented to the Department Head who shall make the final determination relative to the implementation of the Last Chance Agreement. The employee shall be given the opportunity to take one (1) day of unpaid administrative leave to consider signing the Last Chance Agreement. The Last Chance Agreement shall be signed and notarized by the employee and the Department Head and placed in the employee's personnel file.

Disciplinary Hearings

Every employee (excluding probationary employees) facing potential disciplinary action of a demotion, suspension or termination, has the right to a Disciplinary Hearing. A Disciplinary Hearing affords an employee who faces disciplinary action notice of the hearing and an opportunity to be heard. The hearing will be conducted by the Department Head or designee. The employee has the right to be accompanied by an attorney or a representative of his/her choosing.

The Department Head or designee shall provide written notice of the Disciplinary Hearing to be provided to the employee by hand delivery no less than three (3) business days before the hearing or if by certified mail, no less than five (5) business days before the hearing, with a return receipt requested. This written notice shall include the following:

1. The nature of the alleged misconduct;
2. The discipline to which the employee may be subjected; and
3. Notification that the Disciplinary Hearing provides the employee's sole opportunity to present evidence, including any witnesses, on his/her behalf and the employee's right to have a representative or an attorney present at the Disciplinary Hearing.

The written notice will also be provided to the Director of Human Resources or designee and the Department's attorney within the Office of the City Attorney no less than three (3) business days before the hearing, and the Director of Human Resources or designee shall have the opportunity to attend the hearing.

It is the responsibility of the Department Head to ensure that the hearing is recorded by audio (with or without video) and that said recording be retained for one (1) year. All documents considered during the Disciplinary Hearing will become part of the record, and the Department shall present evidence, including witnesses, if any, in support of the charge that may result in disciplinary action.

The employee will also have an opportunity to present his/her evidence, including witnesses, if any, and/or an explanation as to why disciplinary action should not be taken.

The Department Head or designee shall have the opportunity to question any witness attending the hearing, including the employee. The employee will be given the same opportunity to question any witness attending the hearing. Following the conclusion of the hearing, the Department Head or designee shall determine the appropriate discipline, if any, and notify the employee of the decision in writing within three (3) business days of the hearing.

Collaborative Mediation

If an employee decides to appeal the outcome of a disciplinary hearing resulting in a demotion, suspension or termination the employee is encouraged to request a Collaborative Mediation within five (5) business days of receiving the disciplinary decision in writing from the Department Head. This request must be made in writing to the Employee Relations Coordinator in the Human Resources Department. This process will be an attempt to resolve the employment dispute to the satisfaction of both the employee and Department prior to pursuing a post-disciplinary appeal. The Collaborative Mediation will be facilitated by a Tennessee Supreme Court Rule 31 trained Mediator selected from a list maintained by the Human Resources Department.

Post-Disciplinary Appeals

Any employee who loses income as a result of demotion, suspension or termination shall have the right to appeal, following the conclusion of full, administrative due process.

If the employee and department are not able to reach resolution through collaborative mediation or if collaborative mediation does not occur, an employee may request an appeal to be heard by the City Council no more than fifteen (15) calendar days after the collaborative mediation or after such initial action has been taken against such employee by the Mayor or Department Head. Notice of the appeal shall be filed with the Clerk of the City Council (hereafter in this Section the "Clerk").

The Clerk shall notify the Tennessee Secretary of State's Administrative Procedures Division (hereafter the "APD") that an appeal has been filed. The APD is authorized to assign an administrative law judge (hereafter " ALJ") to conduct a fair and impartial hearing and adjudicate the employee' s appeal for the City Council as requested by an employee.

If the APD' s office is not available to conduct a hearing, the Chairperson of the City Council (hereafter " Chairperson") shall appoint an ALJ to conduct a fair and impartial personnel hearing and adjudicate the employee' s appeal. The ALJ appointed by the Chairperson shall be an attorney licensed to practice law in the State of Tennessee. The Chairperson may remove an ALJ if the ALJ fails to adjudicate an employee's appeal, for cause or as allowed by law.

The ALJ to whom a case is assigned may convene the parties for a scheduling conference within fifteen (15) days or as soon as practical and shall set a hearing date within ninety (90) days of the date the employee's written request for a hearing is filed with the Clerk unless the employee and the City agree otherwise or for good cause shown. The hearing date may be re-set by agreement of the parties or for cause.

The ALJ to whom a case is assigned shall provide the Clerk with the hearing date. The Clerk shall issue notice of the hearing date to the employee, Department, ALJ and all other interested parties. The Clerk shall make arrangements for a suitable hearing location.

The ALJ appointed to conduct a personnel hearing shall disclose any possible conflicts of interests and shall not engage in ex parte communications except pursuant to law or rules of the City Council. The ALJ shall conduct the hearing in accordance with the rules of procedure established by the City Council. The ALJ shall determine if there is a reasonable basis for the employment decision. The ALJ shall affirm the employment decision if there is a reasonable basis for the decision or modify or set aside any decision of an Administrator on the basis of the evidence. The ALJ shall prepare a record, including a transcript, list of exhibits admitted into evidence during the hearing and all matters of record for a fair and just adjudication of the employee' s appeal.

The ALJ shall file written findings of facts and conclusions in the Clerk' s office within twenty (20) days after the hearing is concluded and issue the written findings to the employee and Department Administrator. The written decision shall include a statement of available procedures and time limits for seeking reconsideration or seeking judicial review.

The Department or employee, within ten (10) days after entry of an initial or final order, may file a petition for reconsideration, stating the specific grounds upon which relief is requested. However, the filing of a request for reconsideration shall not be a prerequisite for seeking judicial review. The other party may respond to the request within ten (10) days. The ALJ shall issue a written decision on the request for reconsideration within thirty (30) days of the request.

Any decision of the ALJ appointed under this Section shall be the final decision of the City Council. Any party aggrieved by the ALJ' s decision shall have the right to seek judicial review in the Hamilton County Chancery or Circuit Courts within sixty (60) days of the final decision pursuant to T.C.A. § 27-9-101, et seq.

Any time limitation set forth in this Section may be extended in writing by the ALJ for good cause shown except the time to file an appeal for judicial review which shall be controlled by applicable State law.

C. GRIEVANCE PROCEDURES

A grievance is a complaint by a City employee that he/she has been treated unfairly and/ or in violation of his/her rights under City policies with regard to employment. The Human Resources Director or designee shall be available to talk with any City employee concerning the grievance process or any other matter. The Human Resources Director or designee will make every effort to respect privacy and maintain confidentiality.

A formal grievance may be filed for a variety of reasons, including but not limited to the following:

1. Violation of City Policy

2. Violation of City Code or Charter
3. Violation of Department rules or operating procedures
4. Violation of State law
5. Promotions
6. Employee Performance Evaluations
7. Disciplinary Actions not involving the employee's own suspension, demotion or dismissal

Position reclassifications may be a reason for filing a grievance if the employee feels that the action may have been a punitive reclassification. However, reclassifications, reassignments, and transfers within the same pay range and on the basis of required business operations are not adverse employment actions that may be considered grievances. Reductions in force may be considered an action to be grieved if the employee believes that the Department inconsistently or improperly applied the City's reduction in force policy or plan.

An employee is not required but is urged to attempt to resolve any grievance informally with his/her immediate supervisor within five (5) business days of the grievable action and prior to starting the formal grievance process. If informal discussion does not occur and/or resolve the matter, an employee may file a formal grievance.

An employee desiring to file a formal grievance must complete the City's Grievance Form and submit to his/her immediate supervisor unless that supervisor is directly involved or is the reason for the grievance, in which case the employee shall submit the Grievance Form to the next level supervisor within his / her department. The Grievance Form is required to be submitted to the appropriate supervisor within ten (10) business days of the grievable action; however, an employee in the Fire Department working twenty-four (24) hour shifts must file a written grievance within four (4) twenty-four (24) hour shifts of when the grievable action was effective. The Grievance Form will include each step of the grievance process with specifics regarding timeframes, the basis for the grievance and the relief sought and whether at each step the supervisors agree or disagree with, or will modify, the relief sought. The Grievance Form will include an entry for the time and date of receipt and a space for the employee and each level of supervisor to sign the grievance. A grievance must be signed by the employee and must include the following:

1. A clear, concise and factual statement of the specific wrongful act or harm done
2. A statement of the remedy or adjustment sought
3. Citation of any rules or regulations, the violation of which constitutes the basis of the grievance

Within five (5) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the receipt of the grievance, the supervisor shall meet with the

employee and attempt to resolve the grievance insofar as it is within his/her power to so do. Further, the supervisor shall render a decision in writing and provide a copy of same to the aggrieved employee within three (3) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the date the supervisor meets with the aggrieved employee.

If the grievance is beyond the authority of the supervisor to resolve or if the employee disagrees with the supervisor's decision, the employee is responsible for submitting the Grievance Form and all necessary documentation to the Department Head or designee within three (3) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the employee's receipt of the supervisor's decision concerning the grievance.

Within five (5) business days of the receipt of the Grievance Form, the Department Head or designee shall meet with the employee and attempt to resolve the grievance insofar as it is within his/her power to so do. Further, the Department Head or designee shall render a decision in writing and provide a copy of same to the aggrieved employee within three (3) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the date the Department Head or designee meets with the aggrieved employee. Grievances which cannot be resolved at the Department Head or designee level may be submitted to the City's Grievance Review Committee.

If the employee chooses to continue the grievance to the Grievance Review Committee, the employee is responsible for ensuring the Grievance Form and all necessary documents are submitted to the Human Resources Director or designee within three (3) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the receipt of the Department Head or designee's decision concerning the grievance.

The Grievance Review Committee shall consist of three members of the City Human Resources Department to include the Deputy HR Director or designee, the Employee Relations Coordinator and one additional HR professional appointed by the HR Director that is not directly involved in the grievance to be heard. The Human Resources Director or designee will schedule and coordinate the grievance reviews according to the order in which they were submitted to the Human Resources Director or designee. The Grievance Review Committee shall meet within 15 business days of the receipt of the Grievance Form and all necessary documents and will hear the basis of the employee's grievance. The Grievance Review Committee shall render a decision and this will be communicated by the Director of Human Resources or designee in writing to the aggrieved employee within three (3) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the decision. The decision of the Grievance Review Committee shall be final with respect to grievances and relief sought.

Failure at any step in the grievance procedure to make and communicate a decision in writing within the specified time limits shall constitute a denial of the relief sought and shall permit the grievance to be appealed to the next step by the employee.

The employee's failure to file a grievance within the time specified in this section constitutes abandonment of the grievance by the employee. The employee's failure to continue a grievance based on the decision by the supervisor or the Department Head or designee within the applicable time period specified in this section shall constitute abandonment of the grievance by the employee. A grievance may also be terminated at any time upon receipt of a signed statement from the employee requesting such termination.

The grievance procedure shall not be used as a means of collectively bringing about changes in wages, hours or other conditions of employment applicable to other employees.