

**THE
CITY OF
MT. HEALTHY, OHIO**

**PERSONNEL POLICY
AND PROCEDURE
MANUAL**

Revised

THIS DOCUMENT IS NOT A CONTRACT

Prepared by:

**CLEMANS, NELSON & ASSOCIATES, INC.
420 W. Loveland Ave., Suite 101
Loveland, Ohio 45140
(513) 583-9221
www.clemansnelson.com**

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Exit Interview	Consent & Release Form for Employees/ Applicants
Ohio Ethics Law	Report of Suspected Job-Related Drug/ Alcohol Use
CDL Drug & Alcohol Consent and Acknowledgment	Last Chance Agreement
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PREFACE

The contents of this manual are presented as a matter of information and to help all personnel better serve the public. While the City Council believes wholeheartedly in these policies, they do not constitute contractual obligations. Nothing in this manual shall be interpreted to revoke or modify the employment at-will status of employees. City Council or the City Manager must formally approve all individual contracts with the City. Just as employees have the right to leave the City's employ at any time and for any reason, so too, the City reserves the right to alter the terms of employment and to terminate any employee at any time and for any reason subject to any applicable Civil Service Rules or Collective Bargaining agreements. The City Council reserves the right to modify, revoke, suspend, terminate, or change any or all such policies, in whole or in part, at any time with or without notice, as permitted by law, and as they deem best serves the citizens of the City.

The policies set forth and adopted within this manual supersede all previous written and unwritten personnel policies of the City. Questions regarding the interpretation and application of these policies shall be directed toward the City Manager or your immediate Supervisor.

OVERVIEW OF MT. HEALTHY CITY GOVERNMENT**SECTION 1.00**

It is the responsibility of everyone connected with this municipality to recognize that the chief function of this local government is to serve the best interests of all people of Mt. Healthy at all times.

Mt. Healthy was incorporated in 1817 which makes the community over one hundred ninety (190) years old. The form of government is a “Charter Government” which follows the guidelines established by Ohio Revised Code.

Council is made up of eight (8) members, seven (7) at large representatives and the President of Council, each serving a four (4) year term. The President of Council appoints each council member as a chairperson to one (1) of the seven (7) established committees. The President of Council chairs each council meeting, however does not have the voting authority for legislation or a seat on any of the seven (7) committees.

The Mayor is elected to a four (4) year term and is responsible for the administration of the City, appointing a City Manager as his/her designee. The Mayor also sits as an ex-official member of each committee.

Department Heads report to the City Manager or his/her designee.

The Finance Director and the Law Director are appointed to four (4) year terms and are required to follow the guidelines that are established for each official in the Ohio Revised Code.

In order to effectively operate an organization, some of the authority and responsibility of running government is delegated to department levels, supervisors, and ultimately, to each employee.

This is a quick overview of the government of the City of Mt. Healthy, the remaining responsibilities and requirements of each elected official and all City employee’s are outlined in the Ohio Revised code, in City Ordinances, in the State and local Civil Service rules and laws, and/or this Policy Manual and apply where applicable.

INTRODUCTION AND OBJECTIVES**SECTION 1.01**

- A. **Introduction:** The primary obligation of the City Council and other elected and appointed City officials is to provide the citizens of Mt. Healthy with quality public services. This is a continuing obligation to which all other obligations are secondary.

The purpose of these policies is to provide those quality services and to achieve a high degree of understanding, cooperation, efficiency, and unity among the employees of the City of Mt. Healthy, Ohio. They are intended to establish systematic and equitable procedures and regulations which will provide uniform policies for the administration of all City employees within both the classified and unclassified services and will promote the professional management of the City's business.

Policies are the basic rules which guide administrative action for accomplishing an organization's objectives. Comprehensive and clearly defined policies and rules, consistently and fairly administered, are essential to the success of any organization.

Consequently, administrators, supervisors, and employees should use these policies and rules to further the City's public service objectives, not to frustrate them. These policies and rules provide all personnel an excellent tool to demonstrate how a well conceived, well executed system of administration and public service operates.

All personnel must be thoroughly knowledgeable of its contents.

All policies and rules are intended to reference both genders, unless specifically noted, and no discrimination is intended by the use of the male gender in the text of this manual.

B. Objectives.

1. The City of Mt. Healthy recognizes that a personnel system which recruits and retains competent, dependable City personnel is indispensable to effective City government.
2. The policies, rules, and procedures set forth in this manual are designed to:
 - a. Promote professional management of the City's business;
 - b. Encourage courteous and dependable service to the public;
 - c. Promote high morale and foster good working relationships among City employees by providing uniform personnel policies, equal opportunities for advancement, and consideration for employee needs;
 - d. Enhance the attractiveness of a career with the City and encourage each of its employees to give his or her best effort to the City and the public;
 - e. Provide fair and equal opportunity for qualified persons to enter and progress in the City service based on merit, fitness, and fair and effective personnel management methods; and
 - f. Ensure that all City operations are conducted in an ethical and legal manner to promote the City's reputation as an efficient, progressive body in the community and the state.

SCOPE OF COVERAGE

SECTION 1.02

- A. The policies, rules, and procedures contained in this manual will apply to all employees, including bargaining unit employees and officials, except in those instances where the Ohio Revised Code, the Charter, the City of Mt. Healthy Civil Service Commission Rules, or a collective bargaining agreement specifically permits dissimilar treatment for a

specific group of employees (e.g., bargaining unit, unclassified, etc.). In addition, these rules do not apply to employees who are employed on a retainer basis.

- B. If there is a conflict between these policies, rules, and procedures and a collective bargaining agreement entered into between the City and a group of employees, the terms of the collective bargaining agreement will prevail as to the employees covered by the agreement. A City Ordinance or the Mt. Healthy Civil Service Commission Rules shall prevail in the event of a conflict between the policies, rules, and procedures and Ordinance, or Rule. In addition, these policies, rules, and procedures shall be superseded whenever they conflict with the terms, conditions, or practices of employment set by the City Council for the City Manager and the City Clerk.
- C. All City employees, in addition to the policies, rules, and procedures contained herein, shall be subject to those rules and regulations promulgated by their Department/Division Head and approved by the City Manager. Any additional policies or rules will be posted or otherwise made available to all affected employees. If there is a conflict between the policies, rules, and procedures contained in this manual and an approved departmental policy, the approved departmental policy will prevail.
- D. Some policies, rules, and procedures may reference or leave matters to more specific plans or documents (such as a health care plan), in which case the more specific plans or documents will control. Undoubtedly, there will be situations which shall require administrative interpretations of the policies, rules, and procedures set forth herein. Every effort must be made to ensure that such decisions are made objectively, with the general intent of the policy, rules, and/or procedure in mind. To that extent, the City Manager or departments may issue directives that clarify these policies, rules, and procedures.
- E. As conditions shift within the City, it may be necessary to add, delete, or revise specific policies, rules, and/or procedures affected by such change. Updated policies, rules, and/or procedures will be issued to all manual holders and communicated to all affected employees.
- F. The City Manager is charged with the responsibility for the administration of these policies, rules, and regulations. The City Manager may delegate specific responsibilities for administration of the personnel policies and regulations to Department Heads and/or other management level staff.

IMPLEMENTATION AND AMENDMENTS**SECTION 1.03**

- A. This manual contains the policies and procedures of the City of Mt. Healthy, Ohio (hereinafter referred to as “City” or “Employer”).
- B. THIS MANUAL PROVIDES GUIDELINES, THAT HAVE BEEN ADOPTED BY CITY COUNCIL, FOR THE CITY AND ITS EMPLOYEES TO FOLLOW. HOWEVER, THIS MANUAL MAY BE CHANGED AT ANY TIME BY THE CITY WITH OR WITHOUT NOTICE (THOUGH THE NORMAL PROCEDURE FOR

AMENDMENT IS EXPLAINED LATER). ANY EMPLOYEE WHO IS UNSURE OF THE EFFECTIVENESS OF ANY OF THE POLICIES AND/OR PROCEDURES CONTAINED WITHIN THIS MANUAL SHOULD CHECK WITH HIS/HER IMMEDIATE SUPERVISOR TO VERIFY THE POLICY AND/OR PROCEDURE IN QUESTION. THIS MANUAL IS NOT AN EMPLOYMENT CONTRACT, EXPRESSED OR IMPLIED. NO REPRESENTATIVE OF THE CITY HAS ANY AUTHORITY TO ENTER INTO AN AGREEMENT WITH AN EMPLOYEE OTHER THAN AS SPECIFIED BY CITY CHARTER.

- C. The policies set forth and adopted within this manual supersede all previous written and unwritten personnel policies of the City. Questions regarding the interpretation and application of these policies shall be directed toward the City Manager, designee, or your immediate supervisor.
- D. The City has the exclusive right and authority to create and issue policies and procedures.
- E. All supervisory personnel should be thoroughly familiar with this manual and administer each policy contained herein, and ensure that subordinate personnel do likewise.
- F. As conditions warrant, these policies, rules, and procedures may be amended, revised, or deleted by approval of the City Manager and consent of City Council. Such revisions, amendments, or deletions will be published in a conspicuous place, or employees will be otherwise notified of their existence, on or prior to the effective date.
- G. City management personnel and city employees may submit proposals for additions or amendments. All such proposals must be submitted in writing to the City Manager who will review and forward all proposals, with recommendations, to City Council for consideration.

DISSEMINATION**SECTION 1.04**

- A. It is essential that a system be established for implementing and administering the Personnel Policy Manual. To ensure that this is done properly, specific administrative procedures for implementation have been developed.
- B. The specific administrative procedures for implementation and administration are as follows:
 - 1. Employees will be given a copy of, or otherwise provided access to, the manual upon hiring, and are expected to know and comply with the content;
 - 2. Department/Division Heads shall be provided a copy of the manual, as determined by the City Manager;
 - 3. The City Manager will keep a list of those management people, and their job titles, who have received copies of the Personnel Policy Manual and the date issued. This list will accompany the master copy of the manual;

- 4. All revisions will be issued by the City Manager and copies distributed to manual holders. For each revision, a memo will be attached to inform the manual holder which action is being altered. The effective date of the new or revised section will appear on the revisions. The manual holders will then include the revised section in their copies of the manual. Revisions, amendments, or deletions will be posted or distributed on or prior to the effective date, and;
 - 5. All supervisors will be required to read this manual, or to otherwise review it. Each employee shall sign a statement that he or she has been made aware of the existence of this manual and the availability of a copy of, or has access to, the manual for his or her review. (See Acknowledgment and Receipt of Personnel Policy Manual, Appendix A.) The signed statement shall be placed in the employee's personnel file.
- C. This manual shall remain the property of the City of Mt. Healthy and shall be surrendered upon request. Unauthorized reproduction and distribution is prohibited. Employees will be allowed a specified amount of time to review the manual during orientation, and thereafter as permitted by their supervisors, and are expected to know and comply with their content.

SAVINGS CLAUSE

SECTION 1.05

If any chapter(s) or section(s) of this manual or any amendment(s) thereto shall be invalidated by law, rule, regulation, or binding legal decision rendered by a person or entity of competent jurisdiction (e.g., court decision, administrative ruling, etc.), or if compliance with or enforcement of any chapter(s) or section(s) of this manual shall be restrained by such person or entity, the remainder of this policy manual and any amendment(s) thereto shall not be affected and shall remain in full force and effect.

DEFINITIONS

SECTION 1.06

Absenteeism: The practice or pattern of an employee failing to report for work for a period of one or more days or failure to report or remain at work within the prescribed time when he or she has been assigned to or scheduled for work.

Absent Without Leave: Failure to report for or remain at work without authorization from the Employer to be absent.

Active Pay Status: Except where otherwise defined in this manual, active pay status shall mean conditions under which an employee is eligible to receive pay directly from the City and includes hours worked, vacation leave, sick leave, compensatory time, etc.

Allocation: The assignment of a position or job to an appropriate classification on the basis of similarity of work and level of responsibility performed in the position.

Anniversary Date: The date one (1) year from which full-time employment commenced is the anniversary date of an employee. Such full-time paid employment could begin as temporary, part-time, provisional, probationary, or permanent status. (For salary increases, the anniversary date shall be that date one [1] year from the effective date of the worker's last merit increase or promotion.)

Appeal: The right to appear before the Commission or Officer and be heard on matters of discrimination, unfair practices, or other rights of applicants or City personnel under these policies.

Applicant: A person requesting consideration for employment in a class in the classified service.

Appointing Authority: The officer having the power of appointment or removal from positions in the classified and unclassified service. (The City Manager is the Appointing Authority for all positions in the classified service.)

Appointment Type: The positions in the classified service shall be defined by the type of appointment as follows: permanent or non-permanent; full-time or part-time, intermittent, seasonal, temporary, student, or emergency as defined in Section 3.05 of this manual. More than one definition may apply to a single position.

Break in Service: Means termination of employment for more than thirty (30) days for any reason other than layoff or approved leave.

Certified Eligible List: Means a list of individuals available for employment from an eligible list or layoff list.

Certified Employee: Means (1) an employee appointed to a position from a certified eligible list; (2) one who becomes certified in his/her position by passing an examination; or (3) one who becomes certified through operation of law.

Civil Service: Means and includes all officers and positions of trust and employment subject to the Civil Service Rules and Regulations of the City of Mt. Healthy.

City: "City" used without another name shall mean the City of Mt. Healthy, Ohio.

Class (or Classification): A group of positions established under these rules sufficiently similar in respect to duties, responsibilities, and qualifications required to be designated by the same descriptive title and equitably compensated within the same pay grade.

Classification and Pay Plan: The system of assigning jobs to classes and to an appropriate pay grade based on the similarities of positions.

Class Series: Any group of classification titles that are similar as to the type of work but differ as to the degree of responsibility and class difficulty that may have the identical name but different numerical designations, or identical titles except for designating levels of supervision (e.g., Clerk I, Clerk II, Clerk III, etc.).

Classified Service: All positions not specifically included in the unclassified service.

Commission: The Municipal Civil Service Commission of the City of Mt. Healthy, Ohio.

Compensatory Time: Time off with pay during the regular working hours in lieu of any type of overtime pay for excess hours previously worked.

Competitive Examination: Any examination administered for initial employment or promotional purposes which requires candidates to comply with the qualification requirements as well as the prescribed requirements for admission thereto.

Condition of Employment: A condition under which an individual accepts appointment to a particular position which determines the duration of the employment or limits the number of hours to be worked (e.g., seasonal or part-time, etc.).

Continuous Service: Means the uninterrupted service of an employee with the City.

Day or Days: Unless expressly provided as "workdays," a time duration specified as a number of days shall be computed as calendar days.

Demotion: A change in position to one which has a lower minimum starting rate of pay and less discretion and/or responsibility.

Department: A work unit of the City organized by a functional area.

Dishonesty: Means the disposition to lie, cheat, or defraud; untrustworthiness; lack of integrity.

Dismissal: The termination of a worker for cause.

Displacement: Means for purpose of layoff, the process by which an employee with more retention points exercises his/her right to take the position of another employee with fewer retention points. Displacement occurs the date the employee is notified that another employee has exercised his/her right of displacement and that the employee with fewer retention points is to be displaced.

Eligible: A person who has satisfactorily met all qualifications and requirements for employment in the job class for which the person has made application and whose name appears on an eligibility list.

Eligibility List: A list consisting of the names of individuals who have been found qualified, through a suitable examination, for employment in positions of a specified class, arranged in order of merit.

Emergency Appointment: An appointment to a position in the classified service which is necessary due to a circumstance of irregular nature, and which is not made from an eligible list, and for which no recruitment or job posting was completed, and which was without review as to the individual's qualifications.

Employee: Means any person holding a position subject to appointment, removal, promotion, or reduction by an Appointing Authority.

Excused Absence: Means being absent from work with the approval of the Appointing Authority or designee.

Exempt Employee: Employees who are exempt from the minimum wage and/or overtime provisions of the Fair Labor Standards Act.

FLSA: Fair Labor Standards Act.

Full-time: Appointment to a position which is defined as "full-time" at the time of appointment. In general, these are positions for which the hours of work are expected to be forty (40) hours per week or more.

Incompetency: Means being incapable of performing job duties, wasting of time or energy in completing work.

Intermittent Appointing: Means an appointment where an employee works on an irregular schedule which is determined by the fluctuating demands of the work which are not predictable.

Layoff: Separation from employment due to lack of work, lack of funds, abolishment of the position, or for other material changes in duties or organization, in accordance with established policy.

Leave of Absence: The temporary separation from active pay status, as authorized by the City Manager, for a definite period of time not to exceed one (1) year and with the employee retaining status and seniority, with or without pay and benefits.

Malfeasance: Means an act which is positively wrongful and unlawful.

Misfeasance: Means the improper performance of an act which a person may lawfully do.

Neglect: Means to omit or fail to comply with an order that can be done. The absence of care or attention in the doing. An omission of a given act. A designed refusal or unwillingness to perform one's duty.

Non-exempt Employee: Employees who are covered by the minimum wage and overtime provisions of the Fair Labor Standards Act.

Nonfeasance: Means the non-performance of an act which ought to be performed; omission to perform a required duty at all, or total neglect of duty.

Non-permanent Position: Any appointment to a position in the classified service which could be specified as emergency, seasonal, student, or temporary shall be considered non-permanent and shall be only for the duration specified at the time of the appointment. Non-permanent employment may be terminated at any time at the discretion of the City Manager with no right to appeal to the Commission.

Open Examination: Means an examination open to anyone, who possesses the minimum qualifications established for a given classification or position.

Oral Reprimand (Warning): Means the discussion a supervisor holds with an employee in which he disciplines the employee for his/her conduct and impresses upon him the need for improvement. This method of discipline can eliminate misunderstandings immediately and set and maintain desired standards of conduct and performance. A notation of the date, time, and reason for an oral reprimand shall be kept in the employee's personnel file.

Overtime: Time worked in excess of forty (40) hours in a work week.

Part-time: Appointment to a position working on a continuous basis, but for which the hours of work are expected to be less than forty (40) hours per week.

Pay Period: Means the period of time during which the payroll is accumulated, as determined by the Appointing Authority.

Permanent Position: Any classified position in the Civil Service to which an employee has been regularly appointed after serving a probationary period. Such position normally involves continuous year round service.

Position: Any office, employment or job calling for the performance of certain duties and the exercise of certain responsibilities by one individual. A position may be vacant or occupied; may be part-time or full-time; and it may be designated as permanent or non-permanent.

Posted/Posting: The act of publishing in writing the classification, a list of duties and the qualifications for a position, so that recruitment of persons seeking a position can be accomplished.

Probation: A fixed period of time during which an employee may be removed from a position at the total discretion of the City without appeal. Probationary periods are to be used to evaluate employees to determine their fitness for the position which they hold.

Promotion: A change in position from one class to a position in another class having a higher minimum salary and a greater scope of discretion and responsibility.

Provisional: An appointment made to a position in the classified service from an eligible list established by non-competitive examination is not certified and is considered as having a provisional appointment.

Reinstatement: Return of an employee to his or her original classification from which he or she was laid off or displaced due to a layoff or readjustment of the work force, or from which he or she transferred or demoted to a different position and/or department or division due to his or her inability to perform his or her job because of a temporary physical disability or loss of required license, certifications, or any other reason for becoming disqualified to perform his or her original job functions.

Resignation: Voluntary termination of an employee's employment with the City.

Seasonal Employment: A type of non-permanent appointment in which the employee works a certain regular season or period of the year, performing some work or activity limited to that season or period of the year.

Seniority: For purposes of all matters such as vacation scheduling and other internal matters affected by seniority and not dictated by law, policy, or a labor agreement, seniority means the uninterrupted length of continuous service with the City. An authorized leave of absence does not constitute a break in service. Seniority continues to accumulate during the term of the leave, provided the employee complies with the rules and regulations governing his/her leave of absence.

For the purpose of layoff, seniority means continuous service with the City, or as designated in the labor agreements. Service may be transferred from one City department to another without loss of seniority as long as no break in service occurs.

Employees who are reinstated from layoff within one (1) year of the layoff date retain previously accumulated seniority, but will not be credited with seniority for the time spent on layoff.

Seniority for the purposes of vacation accrual means the total number of years of service with the City. For employees hired before July 5, 1987, prior service from a township, county, or the State of Ohio is also included in vacation accrual calculation. However, the completion of a total of one (1) year of service is required before eligibility for any vacation leave is established.

Seniority for the purposes of determining retirement benefits is defined as the provisions of the retirement system in which the employee participates.

For all other purposes, seniority shall be defined as set forth in the provisions of the Ohio Revised Code.

Suspension: Enforcement of leave of absence with or without pay of an employee for disciplinary purposes, pending investigation of charges, or other reasons.

Status: A description of the current condition of employment, such as probationary, provisional, temporary, seasonal, emergency, etc.

Temporary Appointment: Means an appointment for a limited period of time, fixed by the Appointing Authority and approved by the Commission either from an eligible list or by the provisional appointment process for a period not to exceed six (6) months.

Transfer: A reassignment of an employee from a position in one department, commission, or office to another position, which can be in the same class or in another class for which the employee meets the minimum qualifications, in another department, commission, office or in another political subdivision having the same salary range and the same level of responsibility within the classified service.

Unclassified Service: Includes those positions which are exempt from all examinations and which are provided no appeal under the Civil Service Commission. Appointment to a position in the unclassified service may be made at the discretion of the Appointing Authority and the

incumbent may be removed, suspended, or reduced from the position at the pleasure of the Appointing Authority.

Vacancy: A position duly created and existent but not occupied by an individual.

Volunteer: An individual who is assisting the City in a non-pay status and who is not eligible for City benefits.

Written Reprimand (Warning): Means a written record of disciplinary action, usually issued after an oral warning has been filed to improve an employee's conduct.

* For additional definitions, see Section 145.09 of the Administrative Code and Rule 1 of the Civil Service Commission Rules.

CITY ADMINISTRATION**SECTION 1.07**

The City Manager shall be the Chief Administrative, Executive, and Law Enforcement Officer of the City. He or she shall be responsible to the Mayor for the administration of all City affairs placed in his or her charge.

Except for the purpose of inquiries and investigations, the Mayor, the City Council or its members shall deal with City officers and employees who are subject to the direction and supervision of the City Manager solely through the City Manager, and neither the Mayor, the City Council, nor its members shall give orders to any such officer or employee, either publicly or privately; however, the City Council may request and require City officers and employees to provide information pertaining to the conduct of City affairs and to attend the meetings of the Council or its committees to present testimony or other evidence.

EQUAL EMPLOYMENT OPPORTUNITY**SECTION 2.00**

- A. The City of Mt. Healthy is an Equal Opportunity Employer. No personnel decisions concerning any term or condition of employment shall be unlawfully based upon race, color, religion, sex, national origin, age, disability, military status, veteran status, or any other protected class except where such criteria constitutes a bona fide occupational requirement.
- B. The City Manager, or designee, is the Employer's EEO Coordinator. The EEO Coordinator is responsible for providing information regarding antidiscrimination laws to employees and others, and for reviewing and resolving complaints involving alleged discrimination not resolved by the department head.
- C. The EEO Coordinator shall be responsible for formulating, implementing, coordinating, and monitoring all efforts in the area of equal employment opportunity. Department heads and supervisors shall maintain responsibility for their actions in regard to offering equal opportunity to each department employee or job applicant and for attempting to resolve discrimination complaints within their respective departments not personally involving the department head.
- D. No inquiry shall be made as to race, color, religion, sex, national origin, age, disability, military status, or veteran status of an applicant, except as necessary to gather equal employment opportunity or other statistics that, when compiled, will not identify any specific individual. Disclosure of this information by the employee is a voluntary action on the applicant's part.

AMERICANS WITH DISABILITIES ACT**SECTION 2.01**

- A. The Employer supports the intent and purposes of the Americans with Disabilities Act (ADA) and will not discriminate against qualified individuals with disabilities because of the disability of such individual in regard to job application procedures, hiring, advancement, discharge, compensation, job training, and other terms, conditions, and privileges of employment.
- B. The City Manager or designee is responsible for providing information about the ADA to employees and others, and for reviewing and resolving complaints involving alleged discrimination against the disabled.

DISCRIMINATORY HARASSMENT**SECTION 2.02**

It is the policy of the City of Mt. Healthy to maintain an environment free from all forms of discrimination, including gender-based discrimination due to sexual harassment. In order to maintain this environment, discriminatory harassment, whether committed by supervisors, coworkers, or members of the public, is strictly prohibited.

A. **Definitions.**

1. **Discriminatory harassment or conduct:** a type of harassing conduct that is based upon an employee's race, color, sex, national origin, age, religion, ancestry, disability, military status, or veteran status or other protected activity as defined by law, including but not limited to the following examples:
 - a. engaging in inappropriate conduct or making jokes or inappropriate comments or emails;
 - b. bringing any item to the workplace environment for purposes of a joke, or for any other non-business purpose, which may be offensive to others;
 - c. using any official City property, including bulletin boards, emails, or space in an employee's office, cubicle or locker, for purposes of a joke or for any other non-business purpose which may be offensive to others;
 - d. defacing any City property or personal property of another for purposes of a joke or for any other non business purpose, which may be offensive to others;
 - e. gender hazing or gender baiting;
 - f. bullying.
2. **Sexual harassment:** a form of sex discrimination and discriminatory conduct, including, but not limited to the following:
 - a. repeated unwanted and/or offensive sexual flirtations, advances, or propositions;
 - b. repeated verbal abuse of a sexual nature or sexually charged atmosphere;
 - c. graphic or degrading verbal or written comments about an individual, the individual's appearance, or the individual's sexual orientation;
 - d. the display of sexually suggestive objects, pictures, or the display of same through other media, or sexually inappropriate or harassing behavior through some sort of media;
 - e. the implication or threat that an employee's or applicant's employment, assignment, compensation, advancement, career development, or other condition of employment will depend on the employee or applicant's submission to sexual harassment in any form; and
 - f. any offensive, abusive, or unwanted physical contact.

B. Responsibility.

1. It is the responsibility of all employees to aid the Employer in maintaining a work environment free from discrimination, including sexual harassment. Therefore, it is the responsibility of each employee, including supervision and management, to immediately report any instances of discriminatory harassment to the proper authority (see reporting procedure below). Any employee who observes any conduct that may constitute discriminatory harassment of a coworker, but fails to report same, may be subject to disciplinary action. Moreover, any employee who receives a complaint alleging conduct which may constitute discriminatory harassment or conduct of any City employee, but fails to report same, may be subject to disciplinary action.
2. It is further the responsibility of each department head or supervisor to ensure that all employees who report to the supervisor are aware of the policy against discriminatory harassment, that they are aware of the complaint and reporting procedures, and that they are aware of the consequences of engaging in discriminatory harassment.
3. It is the responsibility of each department head or supervisor to maintain an environment free from discriminatory harassment. Department heads and supervisors shall familiarize themselves with this policy, the complaint and reporting procedures, the proper methods of investigating complaints of harassment, and the disciplinary procedures regarding discriminatory harassment.

C. Procedure.

1. Once a complaint of discriminatory harassment has been received, or an instance of discriminatory harassment has been reported, the complaint shall be immediately forwarded to the proper member of management for investigation. This person shall then immediately investigate the matter in accordance with the investigation procedure. The complaining employee and/or the reporting employee will be informed of the results of the investigation.
2. If, after a thorough and prompt investigation, it is determined that discriminatory harassment has occurred, the employee who has been found to have committed discriminatory harassment will immediately be disciplined in accordance with the disciplinary procedure for discriminatory harassment. The complaining and/or reporting employee(s) will be informed of the results of the disciplinary procedure.
3. If, after the investigation, it is determined that no discriminatory harassment occurred, or that there is insufficient evidence to determine whether or not discriminatory harassment has occurred, the complaining employee and/or reporting employee will be informed of same.

4. The City will make every effort to keep the complaint confidential, except as required by law and as may be reasonably necessary to successfully complete the investigation.
5. The City protects, as much as possible, employees involved as part of the investigation, from retaliation.

MERIT SYSTEM EMPLOYER**SECTION 2.03**

As an entity that receives grants, the City is committed to the concept of a merit system. Under our merit system, employees and applicants shall be evaluated solely on merit without regard to race, sex, religion, national origin, age, military status, veteran status, genetic information, or disability, or any other factor prohibited by law.

EEO / DISCRIMINATION COMPLAINT PROCEDURE**SECTION 2.04**

Any employee who believes that he/she has been the subject of discrimination or discriminatory harassment, and/or any employee who has witnessed an incident, or incidents of such discrimination or discriminatory harassment, shall report the matter(s) to the proper authority immediately.

- A. Any employee who believes that he/she has been the subject of or witness to discrimination, including sexual harassment, shall immediately report the alleged act(s) to the City Manager or designee. If the City Manager is the subject of the complaint, the employee may file the complaint with the Law Director.
- B. The employee alleging discrimination or discriminatory harassment shall complete the Discrimination Complaint Form provided for that purpose. The employee should provide the following information:
 1. The employee's name;
 2. The name of the subject of the complaint;
 3. The act(s) complained of;
 4. The date(s) of the act(s);
 5. Any witnesses to the alleged acts; and
 6. The remedy the employee is seeking.

This form should be completed by the employee as soon as possible following the alleged act giving rise to the discrimination or harassment complaint.

- C. If the employee alleging the discrimination or discriminatory harassment is unwilling to complete the complaint form, the matter should be addressed under the "duty to report" section and the form should be completed by the person(s) to whom the verbal complaint was made. This form should be completed as soon as possible and no later than two (2) days after the date the alleged act of discrimination or harassment was reported.

- D. After the Discrimination Complaint Form has been completed, the complaint will be promptly investigated by the appropriate authority.
- E. If the investigation reveals that the complaint is valid, prompt action will be taken to end the discrimination and/or harassment immediately.

DISCRIMINATORY DISCIPLINARY PROCEDURE**SECTION 2.05**

All allegations of discrimination and/or discriminatory harassment shall be promptly investigated. When it is determined that there is cause for believing that an act of discrimination or discriminatory harassment has occurred, the following steps will be followed:

1. All complaints alleging illegal discrimination or discriminatory harassment shall be filed on the Discrimination Complaint Form. This form shall be filed as soon as possible after the date the alleged discrimination occurred.
2. The City Manager or designee or other designated individual shall investigate all complaints and respond to the complainant as soon as possible following completion of the investigation. If the complainant is not satisfied with the initial response, he/she may file the complaint with City Council.
3. The charged party may immediately be suspended with pay or temporarily transferred pending the final resolution of the complaint.
4. If the charged party requests it, a meeting will be held during which the charge will be explained to the charged party, and the charged party will be given the opportunity to respond to the charge. This response may be in writing and submitted to the person conducting the investigation.
5. Following the meeting and/or completion of the investigation, a final determination will be made. If it is determined that a prima facie case of discrimination or discriminatory harassment has been established, the charged employee will be verbally notified and disciplinary action will be implemented.
6. Non-employees found to have committed an act of illegal discrimination against an employee will be dealt with appropriately as allowed by law.
7. Any employee that makes a false statement and/or false accusations during the investigation will be subject to appropriate discipline in accordance with City policy.
8. When reviewing complaints alleging a violation of the ADA by the City, the City Manager or designee or other designated investigator will determine whether the complainant is a “qualified person with a disability,” whether the City may have discriminated against the complainant, and, if so, whether the City can “reasonably accommodate” the complainant or otherwise resolve his/her complaint.

EMPLOYMENT BY THE CITY OF MT. HEALTHY**SECTION 3.00**

- A. The City of Mt. Healthy appoints, employs, evaluates, disciplines, lays off, and removes employees within the respective offices and departments. The City also generally establishes the compensation and conditions of employment for employees, subject to certain exceptions established or delegated to other authorities by law.
- B. Employment by the City of Mt. Healthy is employment in a public agency, subject to the laws of the State of Ohio, policies, rules, and procedures established by the City, and the requirement that employees recognize and agree to abide by said laws, policies, rules, and procedures as conditions of employment.
- C. Employees are required to perform assigned duties in a responsible manner during the working hours designated by the City.

REQUIREMENTS FOR EMPLOYMENT**SECTION 3.01**

All applicants for employment must be able to perform the essential functions of the position for which they apply with or without accommodation and must possess or be able to obtain within a reasonable time frame any required licensing, certification, bonding, or other employment requirements or specified in the position description.

IMMIGRATION REFORM AND CONTROL POLICY**SECTION 3.02**

- A. **In General:** In accordance with the provisions of the Immigration Reform and Control Act of 1986, as amended by the Immigration Act of 1990, the City Council has adopted the policy set forth below:
 - 1. The City of Mt. Healthy shall not knowingly hire or recruit or continue employment of any alien hired after November 6, 1986, without substantiating and documenting that alien's eligibility in accordance with provisions established by this policy.
 - 2. The City has established an employment verification system and shall retain appropriate records establishing that each employee hired after November 6, 1986, is lawfully authorized to work in the United States as either a U.S. citizen or as a properly "documented alien."
 - 3. As a condition of continued employment, the City shall verify both the identity and the employment eligibility of all newly hired employees.
 - 4. **Anti-Discrimination Policy:** It is the intention of the City not to discriminate in hiring on the basis of national origin and citizenship status except as otherwise provided by law. The City will not unlawfully discriminate against any citizen or national of the United States or against any alien authorized to work in the job at issue.

CLASSIFIED AND UNCLASSIFIED EMPLOYMENT**SECTION 3.03**

- A. All employees of the City are presumed to be classified civil servants unless the position an employee occupies has been exempted from the classified service by the Mt. Healthy Civil Service Commission. After completion of the original probationary period, or the probationary period following a promotion, classified employees may only be disciplined for cause.
- B. Some City employees serve in the unclassified City service, or occupy positions which have been exempted from the classified City service. Such employees serve at the pleasure of the City. The Mt. Healthy Civil Service Commission has a list of classified and unclassified positions.

EMPLOYEE STATUS**SECTION 3.04**

- A. All employees of the City of Mt. Healthy shall be categorized as full-time, part-time, temporary (e.g., intermittent, emergency, student, etc.), or seasonal.
1. Full-time employee: means an employee who works at least thirty-five (35) hours per week on a regularly scheduled basis or the standard full-time workweek as designated by the Appointing Authority.
 2. Part-time employee: means an employee, other than a firefighter, who works less than thirty (30) hours per week or less than full-time as designated by the Appointing Authority, but on a regularly scheduled basis.
 3. Temporary employee: means an employee who works in a position which is of a nonpermanent nature, (the term "permanent" generally encompasses full or part-time positions), which position has a specified duration of time (e.g., exceptional, professional, or scientific individuals engaged as consultants, etc.).
 4. Probationary employee: means an employee serving the first twelve (12) months of his or her appointment, promotion, re-employment, or reinstatement to any non-temporary position with the City.
 5. Seasonal employee: means an employee who works on the academic program year, or who works on a recurring, but temporary basis annually.
 6. Student employee: means a person employed to work in a non-professional position requiring little or no skill. The person must be a student at an educational institution; however, their assigned position need not be directly related to the content or level of the person's education.
 7. Emergency employee: means an employee whose employment is made necessary due to exigent circumstances, and whose appointment is made without regard to competitive examination. Such employee's appointment may last no longer than thirty (30) days and may not be renewed.

8. **Intermittent employee:** means a person employed to work an irregular schedule which is determined by the fluctuating demands of the work, is not predictable, and is generally characterized as requiring less than 1,000 hours per year.

VACANCIES AND APPLICATION**SECTION 3.05**

- A. Appointments and promotions in the administrative service of the City shall be made according to merit, to be ascertained, so far as practicable, by open competitive examinations, subject to applicable civil service rules.
- B. Applicants for City employment shall complete the application form provided by the City or submit a resume. Persons submitting resumes may also be required to complete an application form.
- C. To the extent certified eligibility lists are available, and required, the City will attempt to comply with the procedures for hiring classified civil service employees.
- D. The Employer will make reasonable accommodations to assist qualified persons with disabilities to apply for vacancies.
- E. Any relative of a City employee applying for a position with the City, shall be given fair and equal consideration in the filling of that position. Notwithstanding the foregoing, at no time shall an employee be permitted to work directly for or supervise an immediate relative of such employee. For purposes of this policy, “immediate relative” means spouse, mother, father, son, daughter, brother, or sister.

EVALUATION OF APPLICANTS**SECTION 3.06**

The Appointing Authority or designee may interview the applicants to determine who is qualified for further consideration. Applicants must submit to any or all of the following: reference checks, interviews, background checks, and other job-related evaluation procedures.

BASIS FOR SELECTION/DISQUALIFICATION**SECTION 3.07**

- A. Once the person evaluating or selecting among applicants has determined those applicants who meet the minimum job-related qualifications, he or she may consider their skills and ability to perform the essential functions of the position.
- B. The Employer may eliminate an applicant from consideration if the applicant:
1. Does not possess the minimum licenses, certifications, educational degree, or equivalent experience, or similar job-related qualifications;
 2. Does not have the knowledge, skills, and abilities to perform the essential functions of the position, either with or without reasonable accommodation;

3. Has made a false statement of material fact on the application form or supplements;
 4. Has committed or attempted to commit a fraudulent act at any stage of the selection process;
 5. Is an alien not legally permitted to work;
 6. Is not within the prescribed age limits, if any;
 7. Has been convicted of a crime that would adversely affect his/her performance in the position to which he/she seeks appointment;
 8. Was previously in the classified service in the same or any other type of employment in the City of Mt. Healthy or other governmental agency and was removed for cause or did not resign in good standing;
 9. After notification did not promptly present himself at the time and place designated for the examination;
 10. Was rejected by the Civil Service Commission within the preceding six (6) months for any examination due to poor work record, or for the conviction of a crime that is related to the performance of the job for which the applicant is currently applying, or where the Commission has rejected the applicant for the same or similar classification for failing to meet the minimum qualifications set forth in the official announcement, unless the applicant has met the required qualifications during that period;
 11. Filed a previous application for the same examination, in which case both applications are subject to rejection; or
 12. Failed or withdrew from an examination for the same or similar classification within the preceding six (6) months except that an applicant disqualified for physical reasons only may compete upon presentation of medical evidence that the disqualifying conditions have been corrected.
- C. An applicant may be eliminated from consideration upon other reasonable grounds relating to job requirements (e.g., inability to perform essential functions even with reasonable accommodation, etc.).
- D. If an applicant is hired and it is subsequently discovered that any of the above disqualifying criteria apply, the City may terminate the employee for dishonesty, incompetency, nonfeasance, or malfeasance.

MEDICAL EXAMINATION (APPLICANTS & EMPLOYEES)**SECTION 3.08**

- A. A physical and/or psychological examination by a qualified physician may be required following a contingent job offer, to ensure that selected job applicants are physically and mentally able to perform the duties of the position for which they are applying. No medical examination, except screening for use of illegal drugs, will be conducted until after the City has made the applicant a conditional offer of employment.
- B. The City shall select the physician to administer the City's examination and the City shall pay the cost.
- C. A job applicant or employee may be disqualified from holding a position with the City if it is determined that the individual is unable to perform the essential duties of the position sought or held. Prior to disqualification or termination, the City Manager will consider whether a reasonable accommodation can be made which would enable the individual to perform the essential duties of the position.
- D. Any offers of employment shall be contingent upon the new employee receiving negative results for the presence of any unlawful substances. Refusal to submit to a drug test by any new employee or prospective employee shall be considered as a voluntary resignation or voluntary withdrawal from any selection process by the employee.
- E. A current employee may be required to submit to a medical examination during his or her period of employment with the City. Such an examination is intended to ensure that the incumbent continues to be physically and mentally able to perform the duties of his or her position. (Examples include mandatory drug and alcohol testing for CDL holders, examination to certify continued eligibility for Family and Medical Leave, examination to assess eligibility for Workers' Compensation, examination required by Occupational Safety and Health programs, fitness for duty exams, etc.) In such instances, the City shall inform the employee in writing of the examination. The City shall assume the cost of such required examinations. The employee shall be responsible for attending the examination, and shall cooperate with the physician in order that the report of examination may be delivered to the City Manager. Employees who refuse examination or fail to cooperate may be subject to disciplinary action, up to and including termination.

TRANSFERS**SECTION 3.09**

- A. There are two types of transfers:
 - 1. Intra-departmental Transfer: a transfer from one position to another bearing the same or similar classification title within the same department is considered an intra-departmental transfer.
 - 2. Inter-departmental Transfer: a transfer from one position to another position of the same or similar class between one department and another department is considered an inter-departmental transfer.

- B. Transfers of employees between departments, on either a permanent or temporary basis, may be made upon consent of the employee to be transferred and the head of the department to which the employee is to be transferred and with the approval of the Civil Service Commission, except as provided in (E) below.
- C. Transferred employees shall conform to the working policies and practices of the department to which they are transferred and shall be subject to a probationary period in the new position as provided herein.
- D. Salary adjustments shall be made in accordance with the City salary and wage plan.
- E. Nothing in this section shall be construed to interfere with the right of the City Manager to assign or reassign employees within a given class among the various departments under his control as deemed in the best interest of the City.

PROBATIONARY PERIOD**SECTION 3.10**

- A. Each employee newly hired or promoted in the City service shall serve a probationary period. Probationary periods shall be set at twelve (12) calendar months. The probationary period can only be extended when the employee has been absent because of illness for a substantial portion of the probationary period, and the City Manager may extend the probationary period by the number of working days, not exceeding the length of time the individual was absent. A person under an extended probation period is not eligible for any merit increase in salary, nor additional benefits or vacation leave until after the probation period is successfully completed and formal approval of permanent status is granted. The probationary period for full-time employees and scheduled part-time and seasonal employees shall be based on calendar months from the date of original appointment.
- B. Time on leave of absence or other nonpaid leaves shall not be counted toward the completion of the probationary periods.
- C. The purpose of the probationary period is to test the qualifications of the employee to perform satisfactorily under actual working conditions. (To obtain more specific information on probationary periods, failure of probation, etc., please refer to Rule 10 of the Civil Service Commission Rules).

Supervisors have a responsibility to only recommend retention of those employees who meet acceptable work standards during the probationary period.

- D. A probationary employee may be dismissed with or without cause at any time during the probationary period.
- E. Following the probationary period and upon recommendation of the Department/ Division Head, and with the approval of the City Manager, an employee may be certificated to permanent status.

SENIORITY**SECTION 3.11**

- A. Seniority is generally defined as continuous service with the City. Seniority may have a different meaning for certain specified purposes. An authorized leave of absence does not constitute a break in service, and seniority time continues to accumulate during the term of the leave, provided that the employee complies with the rules and regulations governing his or her leave of absence, and that the employee is reinstated from the leave.
- B. The two types of seniority used in this manual are as follows:
1. City Seniority: The total time elapsed from an employee's initial appointment date with the City, such employment date being unbroken by any resignation or termination of employment.
 2. Classification Seniority: The total time that an employee has worked in a specific job classification.
- C. Seniority for the purposes of determining retirement benefits is defined by the provisions of the retirement system in which the employee participates.

APPOINTMENTS AND REPORTING NEW HIRES**SECTION 3.12**

The Appointing Authority will make the actual appointments for work forces and will report all new hires to the Ohio Department of Human Services, per R.C. 5101.312, through the use of the New Hire Reporting Form, or through another authorized form or document (i.e., Form W-4, Employee's Withholding Allowance Certificate).

The mailing address is as follows:

Ohio New Hire Reporting Program
P.O. Box 94972
Cleveland, OH 44101-4972

The fax number is as follows:

(216) 861-0323

The City Manager can provide further information.

PROMOTION**SECTION 3.13**

- A. Promotional opportunities shall be offered as far as practicable to qualified current employees. The Employer may limit a selection process to qualified employees or may allow such employees preference in application and/or consideration, to the extent such is permitted by laws, or Rule 11 of the Civil Service Commission Rules. Interested employees, other than firefighters, should contact the City Manager for information on

each position, and must follow the designated procedures in order to be considered for such position. Interested firefighters should contact the Fire Chief for more information on each position. Promotional opportunities will be offered to firefighters upon recommendation of the Fire Chief and approval by the City Manager.

- B. Factors to consider for promotion include an employee's completion of any required probationary period, required training courses, general performance level, records of merit, efficiency, character, conduct, seniority, and any other job-related qualifying criteria.
- C. A promotion shall be treated the same as a new appointment insofar as it is necessary to successfully complete the probationary period for such position. Employees serving promotional probationary periods may be reduced to the classification and salary held prior to the promotion, upon failure of the promotional probationary period, or if the formerly held position no longer exists, the employee may be placed in a comparable position to the formerly held position for which the employee is qualified.

In the event no comparable position exists, the employee may be placed on an appropriate eligibility list or may be terminated. Such terminated employee will be placed on a recall list, and will have the first opportunity to fill any vacancies which occur in the next six (6) months for which he or she is qualified.
- D. The action of reduction for failure to complete a promotional probationary period shall not be considered a disciplinary action, and shall not serve to eliminate the employee for consideration for advancement to other positions.
- E. Salary adjustments shall be made according to the City salary and wage plan.

TRAINING**SECTION 3.14**

- A. **Employee's Responsibility for Maintaining and Upgrading Job Skills:** Each individual administrator, supervisor, and employee bears primary responsibility for maintaining individual knowledge, skills, and abilities necessary to perform the job, and for upgrading skills necessary to meet technological change or seek promotion. The City will facilitate those efforts and provide training from time to time.

An employee may pursue independent study or training but may not obligate the City to pay expenses or compensation without specific advance permission (see D below).

- B. **Training Program Evaluation:** The City Manager will periodically examine current and proposed training programs to ensure the programs' relevance to both the individual employee and organizational training needs.
- C. **On-the-Job Training (OJT):** On-the-job training prepares an employee to effectively perform the responsibilities required of his or her position. It allows the employee to learn his or her job duties, proper procedures, and expected performance levels.

- D. Employees may be required to attend job-related training programs, courses, workshops, seminars, etc. If the City assigns the employee to attend such training or approves a specific request from an employee to attend such training, the expenses incurred shall be paid by the City. The City will not, however, pay for training when it is taken voluntarily and is not related to the employee's job duties. Any such training taken voluntarily by the employee which is job related, shall be subject to the prior approval of the Appointing Authority, or designee.
- E. An employee may request that the City provide additional job training to upgrade performance levels in his or her current position or in preparation for anticipated position vacancies. Such training may be considered by the City. In all cases, however, such additional paid training shall be subject to the approval of the City, upon recommendation of the employee's supervisor.
- F. In the event that an employee requests and receives approval to attend a seminar, training class, etc., and the employee fails to attend such seminar, class, etc., the employee shall repay any cost of the training session that was paid by the City through payroll deductions. The City Manager may waive this repayment procedure in emergency situations.
- G. Time spent in attendance at lectures, meetings, training programs, and similar activities that are required by the City shall be considered as time worked and will be considered compensable. When an employee is required to travel, and such travel occurs within the same work day, travel time is considered compensable with a deduction for usual meal time. When an employee is required to travel, and such travel requires the employee to stay overnight, the travel time is to be considered as time actually worked when it cuts across the employee's normal working hours (e.g., 7:30 a.m. to 4:00 p.m., etc.). This is true even if the travel occurs on a non-scheduled working day (e.g., Sunday, etc.). (Usual meal time may be deducted from this time.)

TEMPORARY ASSIGNMENT**SECTION 3.15**

- A. A temporary assignment is defined as the assignment of an individual employee to a classification different from his or her own, which has substantially different duties than the employee would normally perform. A temporary assignment shall be effected by the Employer to meet the operational needs of the various departments due to illness, emergencies, or special circumstances, and shall not be effected for disciplinary purposes.
- B. An employee temporarily assigned to a position with a lower rate of pay shall not be reduced in pay.

PERFORMANCE EVALUATION**SECTION 3.16**

- A. A written performance evaluation provides supervisors with an effective mechanism to measure and communicate levels of job performance to their employees. It provides the employee with documented, constructive feedback concerning current job performance.

Documented performance evaluation serves as a basis for important management decisions regarding training needs, job assignments, promotion, and retention of employees. The work performance of each permanent employee shall be evaluated in accordance with established procedures.

- B. Each full-time City employee will be evaluated at least annually. Special evaluations may be made if authorized by the City. Probationary employees may be evaluated twice during the probationary period. The first evaluation may be made at the end of the first half of the probationary period, and the second immediately prior to the completion of the probationary period. Should the employee be given a probationary removal before the end of the probationary period, the final evaluation will be made at the time of the removal.
- C. Each employee should be rated by the immediate supervisor to whom he or she is regularly assigned. If an employee reported to two (2) or more supervisors within the period to be evaluated, the current supervisor should complete the rating while the previous supervisor(s) should advise the current supervisor regarding the time the employee served under the former supervisor(s). If an employee received approximately equal supervision from two (2) persons, the supervisors should cooperate on a rating and both should sign the report as raters. Performance evaluation reports shall be prepared on forms provided by the City Manager.
- D. Each employee will be provided a copy of his or her performance evaluation, and a copy shall be filed in the City's personnel file. The supervisor will discuss the report with the employee and will counsel the employee regarding any improvement in performance which appears desirable or necessary.
- E. Employees shall be required to sign their performance evaluations upon review. Such signature shall indicate only that the employee has reviewed the performance evaluation, and does not signify the employee's agreement with the contents of the performance evaluation. Employees refusing to sign their performance evaluations may be charged with insubordination and disciplined accordingly.

DEMOTIONS**SECTION 3.17**

- A. The Department/Division Head may, with the approval of the City Manager, demote an employee to a lower step in the same grade or to a lower related classification as a result of the employee's failure to meet the requirements of his or her class of work, at the request of the employee, or due to disciplinary reasons.
- B. Salary adjustments in cases of demotions shall be made in accordance with the City salary and wage plan.
- C. Employees who have satisfactorily passed their probationary period in the position from which they are demoted, may appeal the action in accordance with the procedures set forth in the section titled Complaint Procedure.

- D. Appeals resulting from demotion shall be heard by the Civil Service Commission, with the exception of unclassified employees. Further discussion on reduction appeals is found in Chapter 7.

EMPLOYMENT OF RELATIVES**SECTION 3.18**

No Department/Division Head shall hire or otherwise employ any member of his or her immediate family. For the purpose of this policy, immediate family shall be defined as husband, wife, child, parent, brother, and sister. Nothing in this policy shall prohibit the employment of such immediate family members by any other department of the City. This policy does not apply to volunteers and other non-permanent or temporary employees.

DISABILITY AND ACCOMMODATION**SECTION 3.19**

- A. **POLICY**: If an employee is disabled and requests an accommodation for a disability, the employer will determine whether the employee can perform the essential functions of the position with some reasonable accommodation. If the employer cannot accommodate a disabled employee in his or her current position, the employer may place the employee in a lower available vacancy for which the employee is qualified; absent such, the employer may place the employee on disability separation.
- B. **PROCEDURE**.
1. If an employee claims a disability and requests an accommodation, the employer will: (1) review the position description and essential functions with the employee; and (2) ask the employee whether the employee can still perform the essential functions of the position with some accommodation. If the employee answers in the affirmative, the employer will ask the employee what type of accommodation he or she prefers and whether any other accommodation would also allow the employee to perform the essential job functions. The employer may also consider accommodations that have not been suggested by the employee. The accommodation the employer selects need only allow the employee to perform the essential functions; the accommodation need not be the best available.
 2. Any accommodation made will remain confidential, and will be treated as such under the employer's other policies and procedures on confidential information.
 3. If the employee says he or she cannot perform the essential functions with an accommodation, the employer may agree with the employee or may suggest an alternative course of action. The employer may determine that some type of accommodation will allow the employee to do the job to the employer's satisfaction, and the employer may evaluate the employee using current performance standards.

4. As a last resort, when an employee becomes physically or mentally unable to perform the essential functions of his or her position, but is still able to perform the duties of a vacant, lower level position, without accommodation, he or she may voluntarily request reduction to the lower level position (and associated wage rate). Such request shall be in writing, stating the reason for the request, and, if approved by the Appointing Authority, attached to the implementing Personnel Action.
- C. **TRAVEL:** When considering any employee request for job-related travel, the employer will consider the special needs of an employee with a permanent disability that substantially affects the employee's ability to drive, see, hear, etc. The employer will not deny job-related travel to a qualified employee with a disability merely because of the disability.

CHAPTER 4 CLASSIFICATION, COMPENSATION, AND HOURS OF WORK

CLASSIFICATION PLAN

SECTION 4.00

- A. Each authorized position shall be assigned by the City Manager to an appropriate classification based on the duties and responsibilities of such position. It is the duty of the City Manager to maintain the classification plan.
- B. All positions to be staffed by members of the work force shall be authorized and established by Council, and Council shall possess exclusive authority to provide for compensation of work force employees.

COMPENSATION

SECTION 4.01

City Council will adopt a pay plan, and the City Manager shall determine the appropriate starting pay for each employee.

WORK SCHEDULING

SECTION 4.02

- A. The work schedule for each department shall be established by the department head with the advice and approval of the City Manager. Daily employee attendance records will be maintained by the department heads. Work days are normally Monday through Friday, except that department heads may adjust normal work schedules for departments as conditions dictate.
- B. All employees are entitled to a meal period with the length designated by the City Manager or designee. Lunch scheduling is subject to approval by the employee's immediate supervisor.
- C. Approved lunch periods may be considered as work time or as non-work time as each department specifies. If the lunch period is not considered as work time, the employee shall be relieved from duty for at least thirty (30) consecutive minutes, uninterrupted by work.
- D. Employees returning late from, or leaving early to, lunch/dinner may be subject to appropriate disciplinary action.
- E. The total hours in the normal work week shall not exceed forty (40) hours without proper overtime compensation for non-exempt FLSA employees, subject to Section (F) below.
- F. The regular work week shall consist of five (5) consecutive eight (8) hour days for all regular employees unless a different schedule is established by the Department Head.
- G. Police and Fire personnel may be assigned to other schedules unique to these departments and may not be entitled to meal periods.
- H. Department/Division Heads are authorized to establish reasonable rest periods during each work day. The granting of these periods and the determination of their time and

CHAPTER 4 CLASSIFICATION, COMPENSATION, AND HOURS OF WORK

length is entirely discretionary with the appropriate Department/Division Head and shall be arranged as the Department/Division Head feels is most consistent with the department's operation.

PAY PERIOD

SECTION 4.03

- A. Employees shall be paid on a biweekly basis, as determined by the City Manager. The pay period runs from Sunday, 12:01 a.m. through the second Saturday, 12:00 midnight.
- B. If a holiday occurs on a Thursday on which a payday falls, paychecks will be issued on the preceding Wednesday, except under extenuating circumstances in which case paychecks will be issued as soon as they are available.
- C. Supervisors are to receive any questions regarding an employee's pay and are responsible for making the necessary explanations or inquiries to resolve the matter.
- D. Pay advances of any kind are not permitted. Persons employed, or persons terminating their employment, in the middle of a pay period shall be paid only for time worked.

OVERTIME AND HOURS OF WORK

SECTION 4.04

- A. **Overtime:** The Fair Labor Standards Act requires Employers to designate a "work period" for purposes of calculating overtime. The work period usually corresponds with a work week, but need not do so. The work period for purposes of payroll and for the calculation of overtime will be seven (7) consecutive days, beginning Sunday, 12:01 a.m. through Saturday, 12:00 midnight. (Some departments may use a different work period, based on operational need.)
- B. **Eligible Employees, Calculating Overtime:** Each covered non-exempt employee, as specified by the Fair Labor Standards Act, shall be entitled to overtime compensation at one and one-half (1½) times his or her regular rate of pay for time in active pay status during the work period once the employee's time in active pay status, including actual hours worked, plus credit for holidays, vacation, sick time, and compensatory time, exceeds eight (8) hours in one (1) day or forty (40) hours per week.
 - 1. Employees whose regularly scheduled work week is less than forty (40) hours per week shall receive straight time pay or compensatory time off at straight time for all hours worked up to eight (8) hours per day or forty (40) hours per week.
 - 2. Any employee who works in excess of forty (40) hours per week shall receive compensation at one and one-half (1½) times his or her regular hourly rate or shall receive compensatory time off at one and one-half (1½) hours for each hour worked in excess of eight (8) hours per day or forty (40) hours per week.
 - 3. Overtime calculations for police and fire personnel may vary.

CHAPTER 4 CLASSIFICATION, COMPENSATION, AND HOURS OF WORK

C. **Sundays and Holidays:** When a covered non-exempt employee is required to work on a Sunday or a City-recognized holiday, he or she shall receive compensation at a rate of two (2) times his or her regular rate of pay, with a minimum of three (3) hours compensation for each occurrence. (The previous statement does not apply to the Police Division, as Sundays are included in the rotation. Also, covered non-exempt employees of the Police Division only receive an additional eight [8] hours of compensation for working on a City-recognized holiday.)

D. **Overtime Authorization:** Normally, overtime must be authorized by the Employer or designee in advance of the overtime being worked.

Unusual or emergency circumstances may require employees to work overtime without having prior authorization of the Employer. Whenever such circumstances occur, the Employer maintains the right to determine the method of compensation provided the Employer has provided the employee ten (10) days advance notice of this policy.

Scheduled overtime which is subsequently cancelled for any reason shall not entitle the employee to overtime compensation.

E. **Travel Time:** When an employee incurs an overnight stay on City business, time spent traveling, and time spent overnight on official City business shall not be considered time worked for purposes of calculating overtime, except to the extent that time intersects normal working time or to the extent the employee is doing actual work.

F. Unless specified otherwise in an employment contract or labor agreement, employees do not earn compensatory time. However, when economic necessity so dictates, the City may offer compensatory time in lieu of cash payment for overtime worked. Compensatory time must be used, at times agreeable to the employee and the employee's supervisor, within one hundred eighty (180) days from earning, or it will be paid.

G. **Starting Time, Quitting Time:** Employees are not expected to perform assignments prior to the beginning or after the end of the regular scheduled work day unless previously approved by the employee's supervisor.

H. Employees called back into work after the end of the regular shift or called in on a day or at a time the employee would have normally been off duty, shall be entitled to a minimum number of hours (e.g., three [3] hours, etc.) for pay purposes. The City Manager shall issue appropriate policies for payment for call-in for the Service Department and Police Division.

I. **Overtime Application to Exempt Positions:** Employees in positions designated as exempt are not governed by this policy, and any time off with pay for additional hours worked must be approved by the City Manager or department head. The City Manager may permit an overtime exempt employee to vary their work schedule.

J. **Record-keeping Required:** Each non-exempt employee who is governed by this overtime policy is required to clock in. This time record must indicate the actual times the employee started work and stopped work each day. Each employee must also indicate

CHAPTER 4 CLASSIFICATION, COMPENSATION, AND HOURS OF WORK

the time when he or she began his or her lunch period and the time when he or she returned from a lunch period.

- K. **Flex-time:** The Employer may utilize "time off" or flexible hours in order to avoid having employees work in excess of their regular number of hours in a work week. Flex-time scheduling must be reasonable and must be approved by the department head and the Personnel Director. This policy is not designed to prohibit overtime; rather, its purpose is to help the Appointing Authority and department heads avoid unnecessary overtime, to the extent they can do so and still provide requisite levels of service. The flex-time arrangement must be for a specified period of time and must not unduly disrupt the City's work scheduling or service to the public.

PAYROLL DEDUCTIONS

SECTION 4.05

- A. Certain deductions are made from an employee's pay check as required by law, in accordance with employee benefit plans, or as requested by the employee and authorized by law. These deductions are itemized on the employee's pay statement which accompanies the biweekly paycheck. Deductions include:

1. **PERS/PFPF:** State law requires that employees contribute to the Public Employees Retirement System (PERS) or the Police and Fire Pension Fund (PFPF). (Membership in the system is compulsory upon being employed except those persons specifically exempted under the provisions of R.C. 145.03.)
2. **Income Taxes:** Federal and state laws, some city ordinances, and some school districts, require that taxes be withheld from each salary payment. The amount of tax to be withheld is determined from tables furnished to the Finance Department by the Ohio Department of Taxation and various other entities, and varies according to the amount of salary and number of dependency exemptions.

Employees are required to complete withholding tax certificates upon initial employment and to inform the City of any dependency change whenever such change occurs.

3. **Medicare Health Insurance:** The federal government requires a certain percentage of the salary of employees hired on or after April 1, 1986, be withheld each pay period to pay for Medicare health insurance coverage.
4. **Medical Insurance Premiums:** The City may require a payroll deduction for the employee's share of medical insurance premiums for those eligible employees electing medical insurance coverage.
5. **Social Security:** Some employees may be required to contribute to the Social Security System. Employees who do not contribute to PERS should see their supervisor regarding the withdrawal of Social Security.

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6. Miscellaneous: Examples include garnishments, credit unions, deferred compensation, child support, employee insurance contributions, Police and Firefighter Disability and Pension Fund, EAP, etc.
- B. The Employer may refuse to make deductions, not required by law, which are below certain prescribed minimum amounts, which occur at irregular intervals, or for another similar cause; other than those deductions required by law, the City may decline to make a deduction that the employee's check is insufficient to cover. All requests for payroll deductions must be presented in writing to the City for authorization.

EXPENSE REIMBURSEMENT / ALLOWANCES

SECTION 4.06

- A. Employees of the City are to receive reimbursement for expenses incurred while traveling on official City business. Employees are eligible for expense reimbursement only when travel has been authorized by the City Manager or designee.
- B. When considering any employee request for job-related travel, the City will consider the special needs of employees with a permanent disability that substantially affect the employee's ability to drive, see, hear, etc. The City will not deny job-related travel to a qualified employee with a disability merely because of the disability.
- C. The following items are reimbursable, subject to the regulations contained herein and compliance with the procedures:
1. Mileage, Parking, and Tolls.
 - a. Employees shall be reimbursed for actual miles, while on official City business, at the current IRS rate, when using their personal vehicle. Use of personal vehicles for City business will not be authorized when a City-owned vehicle is available for use. Such payment is considered to be total reimbursement for all vehicle-related expense (e.g., gas, oil, depreciation, etc.). The City encourages and may require employees traveling to the same destination to car pool.

Mileage reimbursement is payable to only one (1) of two (2) or more employees traveling on the same trip, in the same vehicle. Rental of a vehicle is not reimbursable without prior approval of the City Manager.
 - b. Charges incurred for parking at the destination, and any highway tolls are reimbursable at the actual amount. Receipts for parking costs and highway tolls are required.
 - c. No expense reimbursements are paid for travel between home and office.
 2. Meals: Expenses incurred for meals while on official City business, will be reimbursed up to a per meal maximum rate set by the City Manager and with the prior approval of the City Manager or designee. An employee is eligible for such

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reimbursement only when travel has been authorized by the City Manager or designee. Appropriate receipts shall be required prior to reimbursement.

3. Overnight Trips: Expenses covering the actual cost of a motel room will be reimbursed in full when an employee travels out of the City on official City business, and will be reimbursed only with prior written authorization of the City Manager or designee.
 4. Use of Private Vehicles: The City Manager, upon recommendation of the department head, may approve the use of an employee's private vehicle for official Municipal business. If an employee is routinely required to use his or her car in the performance of official duties for the Municipality, he or she may receive either a monthly car allowance or be paid mileage for the use of his or her car on official City business, at the approved rate per mile actually driven on official government business. Other arrangements at lower levels of reimbursement may be necessary to meet particular situations. Agreements should be reached in advance, and must be approved by the City Manager.
 5. Use of Passenger Vehicles by Senior Officials: The City Manager may authorize certain employees to drive a Municipally owned or leased vehicle to and from their residence, and for uses which are primarily for government business.
 6. Phone Calls: Phone calls necessary for official City business are reimbursable.
 7. Entertainment: Entertainment expenses shall not be reimbursed by the City except in those circumstances where entertainment expenses are required in the proper performance of a job assignment as approved in advance by the City Manager. Entertainment expenses shall be closely scrutinized and shall never be considered reimbursable without the proper approval of the City Manager.
- D. The following items are not subject to reimbursement:
1. Tips over 15%;
 2. Alcoholic beverages;
 3. Entertainment other than that required in performance of job duties and responsibilities;
 4. Laundry and dry cleaning;
 5. Expenses of spouse traveling with employee; and
 6. Any allowable expense where no receipt is provided as documentation by the employee.
- E. Expense reports shall be filed by employees detailing all costs with receipt attached.

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F. **Receipts:** Receipts are required for all reimbursable authorized expenses.

G. **Uniform Allowance.**

1. As required within the scope of assigned duties, the City may provide any uniform required as a part of job performance, whether because of the need to establish public identity, or the elements of the position invoke unusual clothing depreciation. The determination of need shall be made by the Department/Division Head and subject to approval by the City Manager.
2. No employee of the Safety divisions shall wear or use any uniform except while on regular duty, extra duty details, or traveling to or from the job. All uniforms remain the property of the City.
3. For more information on uniform allowance, see individual collective bargaining agreements.

SICK LEAVE**SECTION 5.00**

- A. An eligible employee may request sick leave for absences resulting from illness as described below, provided they follow the policy outlined in Subsection H. Sick leave may be requested for the following reasons:
1. Illness or injury of the employee or a member of his or her immediate family;
 2. Exposure of employee or a member of his or her immediate family to a contagious disease which would have the potential of jeopardizing the health of the employee or the health of others;
 3. Medical, dental, or optical examinations or treatment of an employee or a member of his or her immediate family;
 4. Pregnancy, childbirth, and/or related medical conditions;
 5. An illness or injury under the Family and Medical Leave Act; and
 6. Death of a member of the employee's immediate family;

For the use of sick leave under Section 5.00, paragraphs 1, 2, 3, and 4 above, "immediate family" is defined as mother, father, spouse, child (including step-children), or a legal guardian or other person who stands in the place of a parent (loco parentis). For use under paragraph 6, the definition shall include brother, sister, grandparent, grandchild, father-in-law and mother-in-law.

- B. The City maintains the right to investigate any employee's absence. Employees may be required to furnish proof of illness as evidenced by a physician's statement, or other satisfactory written statements of the employee as required by the City Manager or designee.
- C. An employee earns 4.616 hours of sick leave per pay period (.0577 hours per each hour in active pay status). Active Pay status is defined as hours during which an employee is eligible to receive pay, such as hours worked, hours on vacation, hours on holiday leave, hours on compensatory time, and hours on paid sick leave. Sick leave is not earned while in overtime status.
- D. Part-time, seasonal, student, external, temporary, or other non-permanent employees do not accrue sick leave.
- E. Full-time employees shall be entitled to a maximum of fifteen (15) sick days per year.
- F. Unused sick leave shall accumulate without limit.
- G. Employees absent on sick leave shall be paid at the same basic hourly, daily, weekly, or biweekly rate as when they are working.

- H. Any employee requesting sick leave must inform his or her supervisor of the fact within the prescribed time frame established within that department's regulations. The employee must give the reason for his or her sick leave and location of convalescence, if different than the home address. Failure to do so may result in denial of sick leave for the period of absence. The employee will submit to such medical examination, nursing visit, or other inquiry which the Personnel Director deems necessary.
- I. Sick leave longer than three (3) working days is permitted subject to availability of accrued sick leave time and a statement from a licensed and actively practicing physician which certifies the nature of the illness and the length of time the condition will prevent the employee from working. Such statement must be received by the employee's supervisor not later than six (6) working days after the onset of the illness. In-patient admission to a local hospital will qualify as medical notice.
1. If an employee sought medical attention for any authorized use of sick leave, as set forth in subsection (B) of this policy, he or she must submit a medical practitioner's statement indicating the date and nature of the visit to his or her supervisor. For further references, please see Family and Medical Leave Policy.
 2. If the employee is unable to return to work after the initial period specified in the medical practitioner's statement, a subsequent statement must be issued to continue sick leave.
 3. Sick leave requests for the scheduled workday immediately before or after a holiday or vacation may be thoroughly investigated and only approved with satisfactory documentation or an exemplary attendance record.
- J. Vacation leave and compensatory time (if applicable) may be used for sick leave purposes after sick leave is exhausted, at the employee's request and with the approval of the City Manager. Employees who are unable to return to work after exhausting such leave may apply for a leave of absence or may be eligible for Family and Medical Leave.
- K. **Payment.**
1. Sick leave shall be charged in minimum amounts of one-quarter (¼) hour. Department/Division Heads may set different minimum amounts as operations require, but shall never exceed one (1) hour.
 2. Employees absent on sick leave shall be paid at the same basic hourly, daily, or biweekly rate as when they were working.
 3. If sick leave is denied and as a result the employee has been overpaid, such overpayment shall be deducted from the employee's next paycheck.
- L. **Abuse.**
1. Altering a physician's certificate or falsification of a written signed statement shall be grounds for immediate discharge.

2. An employee fraudulently obtaining sick leave, or anyone found falsifying sick leave records, shall be subject to disciplinary action or discharge in accordance with policies outlined in this manual.

SICK LEAVE CONVERSION**SECTION 5.01**

- A. Upon retirement from active service with the City, and with ten (10) or more years of service with the City, the State or political subdivision, an employee shall be paid in cash for one-fourth ($\frac{1}{4}$) the value of his/her accrued but unused sick leave credit.
- B. This payment shall be made in three (3) equal annual installments, except that if the first installment is less than thirty (30) days credit, an employee may take up to thirty (30) days in the first installment, and the balance of the payment, if any, shall be paid in two (2) equal annual installments.
- C. In the event an employee dies, the payment or payments shall be made to such person as the employee designates as his/her beneficiary on a written "designation of beneficiary" form signed by the employee and filed with the City Auditor. If no designation of beneficiary form is filed with the City Auditor then the payments shall be made to the executor or administrator of the deceased employee's estate or, if the estate is fully administered or is relieved from administration, to the person or persons designated by the court as the proper parties to receive the assets of the deceased employee.
- D. For purposes of payment of unused accumulated sick leave, a day shall be defined as eight (8) hours.

SICK LEAVE DONATION PROGRAM**SECTION 5.02**

Employees of the City of Mt. Healthy may donate sick leave to a fellow employee who is otherwise eligible to accrue and use sick leave. The intent of this sick leave donation program is to allow employees to voluntarily provide assistance to their coworkers who are in critical need of leave due to the serious illness or injury of the employee or a member of the employee's immediate family.

- A. An employee may receive donated leave, up to the number of hours the employee is regularly scheduled to work each pay period, if the employee who is to receive donated leave:
 1. Has a serious illness or injury (including an immediate family member);
 2. Has no accrued leave (e.g., compensatory time, sick leave, vacation leave, personal leave, etc.);
 3. Has not had a self-inflicted illness or injury (the employee);
 4. Has at least one (1) year of completed service with the City;

- 5. Has not been approved to receive other City-paid benefits; and
 - 6. Has applied for any paid leave, workers’ compensation, or other benefits program for which the employee is eligible.
- B. Employees may donate sick leave if the donating employee:
- 1. Voluntarily elects to donate sick leave and does so with the understanding that donated leave will not be returned;
 - 2. Donates a minimum of eight (8) hours, or in the case of Police Officers, eight and one-half (8½) hours, subject to a maximum of twenty-five percent (25%) of their sick leave hours; and
 - 3. Retains a sick leave balance of at least one hundred sixty (160) hours.
- C. The sick leave donation program shall be administered on a pay period by pay period basis. Employees using donated leave shall be considered in active pay status and shall accrue leave and be entitled to any benefits to which they would otherwise be entitled. Any leave accrued by an employee using donated leave time shall be used, if necessary, in the following pay period before additional donated leave time may be received. Donated leave shall be considered sick leave, but shall never be converted into a cash benefit. In the event there is a left over balance of donated sick leave, such donated sick time shall be credited back, in the same proportion, to those employees who donated the sick time.

VACATION	SECTION 5.03
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- A. **Vacation Accrual and Availability:** For accounting purposes, vacation leave accrues at a specific number of hours per pay period beginning at the date of hire. The rate of accrual is determined by dividing the annual entitlement by the number of pay periods.
- B. Newly hired employees may not use vacation leave during their first year of service and are not eligible for cash conversion should they separate prior to the completion of their first year. After the completion of the first year of service, the accumulated vacation, up to ten (10) days, becomes available for the employee’s use. During the second year of employment and thereafter, the employee shall accrue vacation in the same manner for use in the subsequent year of employment.
- C. All full-time employees shall be entitled to the following vacation with pay unless otherwise specifically provided.

EMPLOYMENT	VACATION CREDIT
12 months but less than 84 months	80 hours
84 months but less than 180 months	120 hours
180 months but less than 240 months	160 hours
240 months	200 hours

- D. If an employee has forty (40) accrued but unused vacation hours or less at his or her anniversary date, such time will automatically be rolled over to the following year. Up to an additional forty (40) accrued but unused vacation hours can be rolled over (for a total of up to eighty [80] roll over hours) with approval of the department head and a written request to the Auditor. Bargaining units may carry over to the next year five (5) vacation days (40 hours) without making a specific request.
- E. Vacation leave must be used in minimum increments of four (4) hours.
- F. Only time in City service will count toward vacation qualification credit if the employee was hired on or after July 5, 1987.
- G. The employee's supervisor has the right to establish reasonable vacation schedules to permit efficient daily operation of the department. Employees must submit written requests for vacation a minimum of five (5) working days prior to the dates requested.
- H. In the event an employee is separated from City service for any reason other than a disciplinary one, he/she shall receive vacation pay prorated to the date of separation.
- I. In the event an employee has taken more vacation leave than he or she has accrued at the time of departure from City employment, the City shall be repaid for that amount of vacation time taken in excess of the amount accrued, and such repayment may be taken from the employee's paycheck.
- J. In the event an employee dies while in City service, his or her prorated vacation pay shall be paid to his or her surviving spouse or other designated beneficiary, or to his/her estate.

HOLIDAYS/PERSONAL LEAVE DAYS**SECTION 5.04**

- A. Full-time employees who are paid on an hourly basis and who have completed six (6) months of continuous service with the City shall be entitled to the following holidays at full pay:
 - 1. New Year's Day
 - 2. Memorial Day
 - 3. Independence Day
 - 4. Labor Day
 - 5. Thanksgiving Day
 - 6. Christmas Day
 - 7. Martin Luther King, Jr. Day
 - 8. President's Day
 - 9. Good Friday (one-half day)
 - 10. Columbus Day
 - 11. The Date after Thanksgiving Day
 - 12. December 24 (one-half day)
 - 13. December 31 (one-half day)

Part-time employees shall be entitled to holidays, if any, as described in Council ordinance or applicable labor agreement.

- B. If a holiday falls on Sunday, it will be observed the following Monday; if it falls on Saturday, it will be observed the previous Friday.
- C. Employees who are in “no-pay” status (e.g., disciplinary suspension, leave of absence without pay, etc.) will not receive holiday pay.
- D. The City will make every reasonable effort to accommodate the special needs of an employee wishing to participate in the observance of his or her religious holiday.
- E. Only time in City service will be considered for holiday qualification.
- F. Hourly employees who have not completed six (6) months of service with the City may be excused from work on any of the holidays listed in this section and still receive their usual straight-time wage for the holiday week if they have prior approval from their Department Head and made arrangements acceptable to that Department Head to make up the hours missed.
- G. Salaried employees qualify for holiday pay upon beginning City service.

FUNERAL LEAVE**SECTION 5.05**

- A. Any eligible employee may take sick leave (upon approval of the City Manager) for a maximum of three (3) consecutive working days in the event of a death of an immediate family member. A maximum of two (2) additional days may be approved by the City Manager on a case-by-case basis. These additional days shall be deducted from sick leave, vacation leave, or special leave without pay.
- B. For purposes of this policy the “immediate family” is defined as only: mother, father, sister, brother, child, spouse, mother-in-law, father-in-law, step-children, daughter-in-law, son-in-law, stepmother, stepfather, stepbrother, stepsister, grandmother, grandfather, grandchild, niece, nephew, legal guardian, or other person who stands in the place of a parent (in loco parentis), or the employee’s spouse’s grandparent, or other relative residing in the employee’s household.
- C. Any requests for funeral leave must be requested in accordance with the "Notification of Absence" policy contained in this manual.

COURT LEAVE**SECTION 5.06**

- A. If an employee (other than a contractual employee with a Court Leave section in his or her contract) is called for court jury duty or subpoenaed to testify in a court of law, during any portion of the employee's regular scheduled working day, that employee may choose to be compensated for such time in one of the manners set forth below:

1. The employee may choose to receive his or her regular salary or wage in full for such time from the City. In such case, all monies received as compensation for court service shall be turned over in full to the City.
 2. The employee may choose to retain all monies received as compensation for court service and waive his or her regular salary or wage in full for such time from the City.
 3. The employee may choose to retain all monies received as compensation for court service plus take a vacation day for such time off, with the approval of the City Manager or designee.
- B. If the employee chooses option #1 as specified, he or she will be expected to report for work following jury duty, if a reasonable amount of time remains during his or her scheduled work day.
- C. If an employee is called for court jury duty or subpoenaed to testify in a court of law, outside of his or her regularly scheduled working hours, all monies received as compensation for such court service shall be retained by the employee.
- D. Employees shall not be entitled to paid court leave when appearing in court for criminal or civil cases, such as traffic court, divorce proceedings, custody hearings, etc., when the case is being heard in connection with the employee's personal matters. Such absences shall be considered leave without pay, personal leave, or vacation leave, at the employee's option, as scheduled in advance with approval of the City Manager.
- E. Employees requesting court leave shall request leave from their Department/Division Head prior to taking such leave.
- F. Employees appearing in court in connection with their official capacity with the City shall receive their appropriate rate of pay.

MILITARY LEAVE**SECTION 5.07**

- A. **Active Duty Leave:** Military Leave is governed by R.C. Chapter 5903, R.C. 124.29, and the federal Uniformed Services Employment and Re-employment Acts (USERRA). In general, any employee with more than ninety (90) days tenure who voluntarily or involuntarily enters any of the Armed Services of the United States, shall be granted a military leave of absence without pay. If not accepted for active duty, the employee shall be reinstated to the employee's former position without loss of seniority or status or reduction in pay. Employees who complete their active duty obligation (without voluntarily re-enlisting or extending that obligation) are entitled to their previous position within thirty (30) days after their written request, provided such request is submitted within the statutorily required period following discharge or release from active duty. If temporary physical disability precludes the employee from performing the previous job, the employee shall be allowed up to one (1) year from the date of application to overcome such disability and return to work. Employees returning to previously held

positions under these provisions shall receive credit for military service in areas affecting seniority status, rank, rating, increments, qualifications, etc., as though they had been continually employed.

- B. **Military Reserve Leave:** R.C. 5923.05 requires that permanent public employees, who are members of Ohio National Guard, Ohio Organized Militia, or other reserve components of the armed forces of the United States be authorized up to one hundred seventy-six (176) hours of leave without loss of pay per calendar year for military duty or training. This payment is in addition to the gross uniformed pay and allowances the employee receives from the military.
- C. **Military Reserve Leave In Excess Of 176 Hours:** Any permanent public employee called to military duty for a period in excess of the one hundred seventy-six (176) hours because of an executive order issued by the President of the United States, because of an act of Congress, or because of an order to perform duty issued by the governor pursuant to R.C. Section 5919.29, is entitled to be paid the difference between the employee's gross monthly wage or salary and the gross uniformed pay and allowances up to five hundred dollars (\$500.00) per month. If the gross uniformed pay and allowances equals or exceeds the employee's regular gross monthly wage or salary normally paid by the City, the employee is not entitled to any additional compensation from the City after being compensated for the initial one hundred seventy-six (176) hours per calendar year.
- D. **Request For Leave:** Employees are required to submit to the City a copy of the published orders authorizing the military duty or a written statement from the appropriate military commander authorizing such duty. Employees requesting such leave will also be required to complete and submit a request for leave form.

Military Leave shall be provided in accordance with applicable federal and state laws.

LEAVE OF ABSENCE WITHOUT PAY**SECTION 5.08**

- A. The City Manager may grant a leave of absence to any employee for a maximum duration of one (1) year for the following reasons:
1. To enable an employee to engage in a course of study that will increase his or her usefulness to the City service.
 2. To enable an employee who is physically or mentally incapacitated to recover his or her health.
 3. Extended Family and Medical Leave to care for the employee's spouse, child (including stepchild), or parent with a serious illness.
 4. Other personal issues considered valid by the Department/Division Head and approved by the City Manager.

- Such a leave may be renewed or extended beyond one (1) year if the request for extension meets all requirements of the original request.
- B. The authorization of a leave of absence without pay, other than Family and Medical Leave, is a matter of administrative discretion. The City Manager will decide in each individual case if a leave of absence is to be granted.
 - C. The granting of any leave of absence is subject to the approval of the City Manager. Except for emergencies or Family and Medical Leave, employees will provide written request to the Department/Division Head (with approval by the City Manager) sixty (60) days prior to commencement of the desired leave so that the various functions may proceed properly. Foreseeable Family and Medical Leave requires at least thirty (30) days' advance notice, as discussed in Section 5.09 of this Manual.
 - D. Upon completion of a leave of absence, the employee will be returned to the position formerly occupied, or to a similar position if the employee's former position no longer exists, if such is reasonable.
 - E. An employee who fails to return to work following an authorized unpaid leave of absence will be considered as having resigned from the position.
 - F. An employee on an unpaid leave of absence does not earn sick, vacation, or personal leave credit. However, time spent on the leave of absence will be considered in determining length of service for purposes where tenure is a factor. Employees do not receive pay for holidays or personal days while on an unpaid leave of absence.
 - G. An employee on an unpaid leave of absence does not receive benefits except that an employee on an unpaid leave of absence which is to last longer than thirty (30) days may continue to participate in the City's group health insurance plan by paying the entire premium.
 - H. If it is determined that an employee is abusing the leave of absence and not actually using the leave for the purpose specified, the City Manager may cancel the leave and provide the employee with a written notice directing the employee to report for work.

FAMILY AND MEDICAL LEAVE**SECTION 5.09**

- A. **Eligible Employees:** Employees are eligible for Family and Medical Leave (FML) if they meet the following criteria:
 - 1. The employee has been employed by the City for at least twelve (12) months; and,
 - 2. The employee has actually worked at least 1,250 hours of service during the twelve (12) month period immediately preceding the start of the leave. (Note: Paid vacation, sick leave, etc., does not count towards the 1,250 hours of service).

- B. **Eligible Leave:** Employees who meet the above criteria are eligible for up to twelve (12) weeks of FML for any of the following reasons:
1. Birth of a child, and to care for a newborn child.
 2. Placement of a child by way of adoption or foster care.
 3. The employee having a "serious health condition" that makes them unable to perform the functions of his or her job.
 4. To care for the employee's spouse, son, daughter, step-son, step-daughter, or parent who has a "serious health condition."
 5. Leave for any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on (or has been notified of an impending call to) "covered active duty" in the Armed Forces.

Leave for birth or placement of a child must be taken within one (1) year of birth or placement.

C. **Definitions.**

Spouse: means husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including common law marriage and same-sex marriage. Unmarried domestic partners do not qualify for Family and Medical Leave to care for their partner.

Child: is a son or daughter, including biological, adopted, foster child, step-child, or a child of a person standing in loco parentis, who is either under age eighteen (18), or age eighteen (18) or older and is incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.

Parent: means biological, adoptive, step or foster father or mother or any other individual who stands in the place of a parent to the employee ("in loco parentis") when the employee was a child. This term does not include parents "in law."

Foster Care: is defined as placement of a child with the employee through a formal agreement for substitute care requiring state action, rather than an informal arrangement to take care of another person's child.

Serious Health Condition: means an illness, injury, impairment, or physical/mental condition that involves a period of incapacity or treatment that requires absence from employment for more than three (3) calendar days and involves care by a health care provider. Serious health condition also includes continuing treatment of chronic or long-term incurable conditions and pre-natal care.

Next of Kin: means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: Blood relatives who

have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

- D. **Request/Notification of Leave:** When feasible, employees must submit a written request for leave thirty (30) days prior to the requested leave start date. In situations involving medical emergencies, etc., employees are to submit their request as soon as possible, but not later than four (4) days after the beginning of the emergency situation. While on FML, the City may require an employee to provide periodic reports regarding the employee's status and intent to return to work.

Request for leave will include a brief description of the need for leave, identify who the leave is for, what relationship the individual is to the employee (e.g., employee, spouse, parent, etc.), and length of leave requested. Along with the request, the employee will also furnish the City Manager with medical certification of the serious health condition from the physical/health care provider. The medical certification shall include the identity of the individual with the serious health condition, date on which the condition began, probable duration of the condition, and, if regarding the employee, whether the employee is unable to perform the essential functions of his or her job. Based upon the request for leave and the medical provider's certification, the City Manager shall authorize or deny the request, or may, at City expense, require the employee to obtain a second (and possibly third) medical opinion to confirm the leave request.

The City Manager may designate that an employee's leave qualifies for and will be counted as Family and Medical Leave. The City Manager must make such designation prior to the starting of the Leave unless sufficient information as to the reason for the Leave is not available until after the Leave began.

- E. **Approval/Denial of Leave Request:** The City Manager or designee shall notify the employee orally or in writing within two (2) business days as to the approval or denial of his or her FML Request, and that any sick or vacation leave will be set off against the Leave pursuant to the City's policy regarding same (see F. below). Oral notice will be followed by written confirmation by payday following. If the Employer is late complying with these notice requirements, paid leave may only be set off against FMLA leave prospectively, once notice is given (see F. below). The City shall note the starting and ending dates of leave, reinstatement procedures, and utilization of accumulated paid leave. The City's Insurance Carrier/Consultant shall notify the employee as to the status of insurance coverage and the employee's contributions, if applicable, when notified by the City.
- F. **Utilization of Accumulated Paid Leave:** Employees must utilize accumulated paid leave for all or part of the FML twelve (12) week period. Accrued sick leave will be utilized for conditions that are eligible for sick leave and Family and Medical Leave Act. Unpaid FML shall be authorized when all eligible accrued paid leaves have been exhausted (e.g., sick leave, vacation, personal days, etc.). In other words, FML leave and paid leave for conditions that qualify under FML run concurrently.

- G. **Leave Period:** An eligible employee may take up to twelve (12) work weeks of FML leave during a twelve (12) month period. The twelve (12) month period shall be measured forward from the date the employee's first Family and Medical Leave begins (a rolling twelve [12] month period).

Employees may request intermittent or reduced leave schedules to accommodate medically necessary treatment in connection with a serious health condition. Intermittent or reduced leave may not exceed the total hours an employee would have worked during their regular twelve (12) week schedule. If intermittent or reduced leave is approved, the City Manager may require the employee to schedule the leave so as not to unduly disrupt the City's operations or the employee may be placed in an alternate position which better accommodates the intermittent leave schedule.

When both spouses are employed by the City, they are entitled to an aggregate total of twelve (12) weeks of FML for childbirth, adoption placement, or foster care. This limitation does not apply to FML taken by either spouse to care for the other spouse, a child, or a parent with a serious health condition.

An eligible employee who is the spouse, son, daughter, parent, or the next of kin of a "covered service member" is also entitled to take up to twenty-six (26) workweeks of FMLA leave in a single twelve (12) month period to care for a "covered service member" with a "serious injury or illness."

- H. **Insurance Coverage:** Employees are entitled to maintain the same health benefits during the FML leave. Employees are responsible for continuing to pay any share of the health care costs that they were responsible for prior to the leave.

Payment is due at the same time as it would be if made by payroll deduction (i.e., on pay day).

Should an Employee fail to return to work after his or her FML expires, the City may recover from the employee the City's share of health insurance premiums paid during the period of unpaid FML Leave. Insurance premiums may not be recovered if the employee fails to return to work due to the continuation, recurrence, or onset of a Serious Health Condition or circumstances beyond the employee's control.

- I. **Reinstatement:** Employees returning from FML are generally entitled to be placed in their same position or equivalent positions with equivalent pay, benefits, and conditions. However, under certain circumstances, certain salaried employees may be denied reinstatement upon expiration of a leave depending upon the City's needs and other factors. Questions concerning reinstatement rights of salaried employees should be directed to the City Manager.

Employees whose FML was for their own personal medical conditions must, prior to reinstatement, submit medical certification to the Employer as to their ability to return to work, subject to a second medical opinion as deemed necessary by the Employer or a third medical opinion as provided in the Family and Medical Leave Act.

INCLEMENT WEATHER / EMERGENCY DEPARTMENT CLOSINGS SECTION 5.10

The purpose of this policy is to set forth the Employer's policy for payment or non-payment of employees for time not worked due to weather emergencies or severe weather conditions. This section excludes safety force personnel.

- A. In the event a weather emergency is declared and the City Manager or designee closes City departments/divisions, employees will be compensated for the number of hours for which they were scheduled to work during the emergency period.
- B. The City recognizes that on certain days it may be difficult or impossible for a scheduled employee to come into work, due to excessive snow, ice, or other inclement weather. The City encourages its employees to come into work on such occasions, only if in the employees' judgment they are able to do so in a safe manner. If in the opinion of the City Manager such inclement weather conditions exist, the following policy specifies the guidelines for payment of wages on such days.
 - 1. Scheduled employees who are able to come into work on such inclement days shall be paid at their regular wage for actual time worked. Those employees who are not able to come into work due to inclement weather shall have the option of receiving an excused day off without pay or using accrued vacation, accrued compensatory time off, or personal leave.
 - 2. Employees who actually report to work and then are sent home prior to the end of their regular shift due to inclement weather will receive payment for the remaining portion of their shift.
 - 3. Employees not scheduled to work because of scheduled vacation, prior approved sick leave, personal leave, or leave of absence will be charged for the leave during the period of any declared emergency or order to close, and those employees will be entitled payment of sick leave, vacation leave, or personal leave which had already been requested.
- C. Inclement weather is not a valid reason for the use of sick leave.

DOCTOR AND DENTIST APPOINTMENTS**SECTION 5.11**

It is recognized that doctors and dentists normally limit office hours to those that are also observed by the City Departments/Divisions. Employees are expected to schedule medical and dental appointments to minimize interference with office hours. To keep lost production time to a minimum, the employee should schedule appointments for early or late in the day. Medical/dental appointments are excusable absences and are valid reasons for use of earned sick leave.

UNAUTHORIZED LEAVES**SECTION 5.12**

Any City employee who is absent from duty without authorized leave and notice to the City Manager or designee, shall be subject to disciplinary action up to and including termination and/or may be considered to have constructively resigned where the situation warrants. Please refer to Leave of Absence Without Pay, Section 5.08 (failing to return to work following the expiration of an authorized leave of absence without pay); but see, Family and Medical Leave, Section 5.09(D) (request for leave in situations involving medical emergencies must be submitted no later than four [4] days after the beginning of the emergency situation).

HEALTH INSURANCE / LIFE INSURANCE**SECTION 5.13**

All full-time employees of the City are eligible for life and health insurance as provided by collective bargaining agreement or authorized by City Council. Any employee with questions concerning coverage or premiums should contact the City Manager or designee.

An employee who is age 65 and eligible for Medicare shall have the option of choosing Medicare coverage or City health insurance. An employee who chooses Medicare shall not be eligible for City-provided health insurance, nor shall the City pay any portion of the Medicare premium.

HEALTH INSURANCE FOLLOWING SEPARATION (COBRA)**SECTION 5.14**

- A. Generally speaking, an employee who is covered under the City's group health care insurance or certain related group insurance, and who loses coverage due to a reduction in hours or a termination of employment (for reasons other than gross misconduct), is entitled to purchase continuing coverage (COBRA) at his or her own expense. The City Manager or designee shall see that the employee is informed of his or her right to continue coverage under the health insurance group after cessation from payroll through the assumption of premium costs by the employee. The employee's spouse and/or dependents may also be eligible.
- B. The employee, spouse, and/or dependents will be responsible for the total premium payment, and the City may add a two percent (2%) charge for administrative costs.
- C. Questions and/or requests for more information should be referred to the Department/ Division Head or designee.

INJURY LEAVE**SECTION 5.15**

- A. Any regular full-time employee who becomes unable to perform duties as assigned by the City due to a physical injury or illness suffered in the discharge or performance of his official duties, with the exception of gross negligence or intentional self-injury, shall be placed on Injury Leave. The employee will continue to receive his regular straight time daily rate of pay (the base rate of pay). This Injury Leave is fully paid by the City, and is in lieu of Workers' Compensation (temporary total disability).

- B. An employee who applies for Injury Leave will apply to the Bureau of Workers' Compensation for medical benefits only and not lost income benefits. The employee may apply for lost income benefits during injury leave if it is anticipated that the absence will continue beyond the paid leave.
- C. Injury Leave will continue for a period not to exceed thirty (30) days per calendar year for all regular full-time employees (except for firefighters, who are authorized fourteen [14] regularly scheduled twenty-four [24] hour shifts), without using any accumulated leave. The thirty (30) days are not to be accumulated, but shall be renewed at the first of each year.
- D. The City has the right to review the employee's physical and mental status in order to determine the employee's ability to return to work. In the event of a difference of opinion as to the employee's mental or physical status between the employee's physician and the City's physician, the issue shall be submitted to a third physician selected by the Employer from a list submitted by the Academy of Medicine of Greater Cincinnati, whose decision regarding the ability of the employee to perform his regular duties, shall be final and binding on both parties. The services of the third physician shall be paid by the City.
- E. An employee applying for Injury Leave shall authorize the release to the City of all medical information, pertinent only to the occupational injury or illness, possessed by the employee, treating physician(s) and treatment facility(ies), if so requested by the City or its designee.
- F. The City may assign the employee to light duty with the approval of, and within the limitations set by, the treating physician. The City will determine if light duty work is available.
- G. If an employee is unable to return to work after the expiration of the Injury Leave, such employee shall revert to regular sick leave, or other approved leave if applicable.

WORKERS' COMPENSATION**SECTION 5.16**

State law provides that every City employee is eligible for Workers' Compensation for injuries arising out of and in the course of his or her employment. Guidelines for administering work related injuries in the City are set forth below.

- A. Should an employee be injured during the course of employment with the City, he or she shall report the incident to his or her supervisor within twenty-four (24) hours or as soon as possible thereafter, and his or her supervisor shall notify his or her Department/Division Head and shall complete an injury report regardless of the apparent seriousness of the injury, and regardless whether medical attention is required. Such report shall be forwarded to the Department/Division Head (or designee) no later than forty-eight (48) hours after the accident. An employee injured in a work-related accident may be required by the Department/Division Head to see a physician. (See Section C below regarding immediate reporting of serious accidents.)

- B. Should the Department/Division Head require it or should an employee's injury require medical attention, the supervisor shall provide the injured employee with a Workers' Compensation claim form, which shall be completed by the attending physician. This completed report should be forwarded to the Ohio Bureau of Workers' Compensation through the City Manager.
- C. In the event of serious injury, the injured employee's supervisor shall notify the Department/Division Head and City Manager immediately so that, if necessary, an investigation may be initiated.
- D. The Department/Division Head must be advised and continually updated if an employee continues to be absent due to a work-related injury. Employees are responsible for providing their expected date of return to work (if known).
- E. Any documents received from the injured employee, his or her physician, hospital, or the State, regarding a Workers' Compensation claim must be immediately forwarded to the City Manager or designee.
- F. Employees who are injured in the line of duty and must leave work before completing their workday period shall be paid at their regular compensatory rate for the balance of time left in their scheduled work day.
- G. An injured employee may elect to use accrued sick leave and vacation leave prior to receiving payments from Workers' Compensation. Employees are prohibited, however, from receiving payment for sick leave while simultaneously receiving payment from Workers' Compensation.
- H. Further information on Workers' Compensation can be obtained from the City Manager or City Auditor.

RETIREMENT PLANS**SECTION 5.17**

- A. All employees of the City except for those specifically exempted by statute are required to participate in the Ohio Public Employees Retirement System or the Police and Fire Disability and Pension Fund.
- B. Eligible employees are required to contribute a percentage of their gross pay, as determined by the Retirement Board. Such amount is then deducted each pay period. This amount is more than matched by a contribution from the City. The City's contribution is also determined by the Retirement Board.
- C. Full-time City police officers are required by law to participate in the Police and Fire Pension Fund. Employee and Employer contribution amounts are determined by the Pension Fund Board.
- D. These plans are independent of the Federal Social Security System.

- E. If employees should have any questions regarding this program, they should call or write to the address below, and include their Social Security number. The addresses and phone numbers are:

Public Employees Retirement System
277 East Town Street
Columbus, OH 43215
(800) 222-PERS (7377)

or

Police and Fire Pension Fund
230 East Town Street
Columbus, OH 43215
(614) 228-2975

DISABILITY LEAVE / SEPARATION**SECTION 5.18**

This section outlines the conditions under which Disability Separation may be granted, and procedures for administering its use. **It is intended to outline the procedures to be followed after determining that no reasonable accommodation can be made.**

- A. **Voluntary Reduction:** When an employee becomes physically unable to perform the essential functions of his or her position even with a reasonable accommodation, but is still able to perform the duties of a vacant lower level position, he or she may voluntarily request reduction to the lower level position (and associated wage rate). Such request shall be in writing, shall state the reason for the request, and, if approved by the City, will be attached to the implementing Personnel Action.
- B. **Disability Leave:** A physically incapacitated employee, who has exhausted his or her accumulated sick leave, authorized vacation leave, personal leave, compensatory time, and Family and Medical Leave, and for whom voluntary reduction or reasonable accommodation is not practicable, may request up to six (6) months of disability leave without pay, only if he or she can present evidence as to the probable date on which the employee will be able to return to the same or similar position within a six (6) month period. Such request should be submitted in writing to the department/division head with a copy of a physician's statement attached.
- C. **Involuntary Disability Separation or Termination for Failure to Report for Work:** According to the rules of the Director of the Ohio Department of Administrative Services (123:1-33-02), involuntary disability separation is effective in the following cases:
1. If an employee becomes unable to perform the essential job duties of the employee's position, subject to the Americans With Disabilities Act, and if the employee has exhausted Family & Medical Leave, the Appointing Authority may involuntarily disability separate the employee.

2. If an employee on disability leave is unable to return to work when the employee's disability leave is exhausted, then the Appointing Authority shall involuntarily disability separate the employee if the employee cooperates under this procedure, or remove the employee for not-reporting-without-leave if the employee does not cooperate. (Please note that disability leave is only granted after Family and Medical Leave is exhausted. See B. above.) The Appointing Authority shall do so by completing a dismissal order indicating the reasons as "incompetency, neglect of duty, and non-feasance" with an adequate explanation to make clear that the underlying reasons are the employee's failure to report for work able to perform his or her essential functions. However, if the employee refuses to submit to examination or to provide proof of disability, grounds for dismissal from employment shall be neglect of duty, non-feasance, and failure of good behavior for failure to report for work without approved leave.
3. If an employee is placed on leave of absence without pay and is subsequently disability separated due to the same disabling illness, injury, or condition, then the total combined time of absence due to the disability shall not exceed the reinstatement rights under the Ohio Public Employees Retirement System.

- D. **Medical Examination:** Ohio Administrative Code Section 123:1-33-02 specifies when medical examinations are either required or permitted in relation to Involuntary Disability Separation.

The refusal to submit to the examination, the unexcused failure to appear for an examination, or the refusal to release the results of an examination will subject the employee to removal, as explained in 5.18(C)(2) above.

- E. **Right to Pre-separation Conference, Rights of Appeal.**

1. The Appointing Authority shall institute pre-separation proceedings when it has received the results of a medical or psychological examination conducted as provided by subsection (D) and initially determines that an employee is incapable of performing the essential job duties of the employee's assigned position with or without a reasonable accommodation, and initially determines that the employee is not eligible to receive benefits under a program provided by the Appointing Authority or is not eligible, or no longer eligible, for a leave of absence without pay due to a disabling injury, illness, or condition. Under those proceedings, a conference shall be scheduled, and advanced written notice shall be provided to the employee. If the employee does not waive the right to that conference, then at that conference, the employee has a right to examine the Appointing Authority's evidence of disability, to rebut that evidence, and to present testimony and evidence on the employee's own behalf.
2. If the Appointing Authority determines, after weighing the testimony presented and evidence admitted at the pre-separation conference, that the employee is capable of performing his or her essential job duties, then the pre-separation conference shall cease and the employee shall be considered to be fit to perform his or her essential job duties. If the Appointing Authority determines, after

weighing the testimony presented and the evidence admitted at the pre-separation conference, that the employee is unable to perform his or her essential job duties, then the Appointing Authority shall issue to the employee an order of involuntary disability separation, as described in 5..18(C)(2) above.

3. The Appointing Authority shall notify the employee, at the time of the involuntary disability separation, of the required procedures to apply for reinstatement.

F. Right to Reinstatement, Rights of Appeal.

1. An employee may make a written request to the Appointing Authority for reinstatement from an involuntary disability separation, which request shall be accomplished by substantial, credible medical evidence that the employee is once again capable of performing the essential functions of the employee's job, and which request shall be made not more than once every three (3) months and not later than three (3) years following an involuntary disability separation, or a leave of absence followed by an involuntary disability separation.
2. When an involuntary disability separation employee presents to the Appointing Authority substantial, credible medical evidence, as provided by (F)(1) above that the employee is once again capable of performing the essential job duties of the employee's assigned position with or without a reasonable accommodation, the Appointing Authority shall either reinstate the employee or require that the employee submit to the medical or psychological examination conducted as provided by paragraph 2 of Subsection (D).
3. The Appointing Authority shall reinstate the employee after receiving the results of that examination if the Appointing Authority determines that the employee is once again capable of performing the essential duties of the employee's assigned position with or without a reasonable accommodation.
4. The Appointing Authority shall institute pre-reinstatement proceedings if the Appointing Authority has received the results of the examination and initially determines that the employee remains incapable of performing the essential job duties of the employee's assigned position with or without a reasonable accommodation. Under these proceedings, a hearing shall be scheduled and adequate advanced written notice shall be provided to the employee. If the employee does not waive the right to that hearing, then at the hearing the employee has a right to examine the Appointing Authority's evidence of continuing disability, to rebut that evidence, and to present testimony and evidence on the employee's own behalf.
5. If the Appointing Authority determines, after weighing the testimony presented and evidence admitted at the pre-reinstatement hearing, that the employee is once again able to perform the essential job duties of the employee's assigned position, with or without a reasonable accommodation, then the Appointing Authority shall reinstate the employee. If the Appointing Authority determines, after weighing

the testimony presented and evidence admitted at the pre-reinstatement hearing, that the employee is not able to perform the essential duties of the employee's assigned position with or without a reasonable accommodation, then the Appointing Authority shall not reinstate the employee.

6. If the Appointing Authority determines that an employee, who has been involuntarily disability separated, has committed an act that is inconsistent with the employee's disability illness or injury, then that act may be considered by the Appointing Authority when determining an employee eligibility for reinstatement.
7. Once an Appointing Authority properly determines that the employee is to be reinstated, the employee has a right to be assigned to a position in the classification the employee held at the time of involuntary disability separation. If the classification the employee held at the time of involuntary disability separation no longer exists or no longer is utilized by the Appointing Authority, then the employee shall be placed in a similar classification. If no similar classification exists, the employee may be laid off.
8. If the employee has been granted disability benefits by a state retirement system, the requirements of this rule shall apply for up to five (5) years, except that a licensed practitioner shall be appointed by the public employee's retirement board and application for reinstatement shall not be filed after the date of service eligibility retirement.
9. An employee refused reinstatement as provided in Subsection (F)(5) shall be notified in writing of the refusal to reinstate and of the right to appeal.
10. An employee who fails to apply for reinstatement within three (3) years following an involuntary disability separation, or a leave of absence followed by an involuntary disability separation, shall be deemed permanently separated from service.

ETHICS OF PUBLIC EMPLOYMENT

SECTION 6.00

- A. All City employees are expected to maintain the highest possible ethical and moral standards and to perform within the laws of the State of Ohio, and other rules and regulations as may be set forth by the City. Conduct that interferes with normal office operations, brings discredit to the City, is illegal, or is offensive to the public or fellow employees will not be tolerated.
- B. It is important to remember that the compensation of employees is paid mostly through taxes. Therefore, each municipal employee assumes the responsibility of serving the public in an honest, effective, and cheerful manner.
- C. Any employee who has had force or an unlawful threat used against him or her to attempt to prohibit the lawful discharge of his or her duties shall report such action immediately to the City Manager so that legal action may be taken.
- D. An employee shall not use his or her position for personal gain nor engage in any transaction, business, or any other interest which is in conflict with the proper discharge of his or her official duties.
- E. All employees are governed by O.R.C. Chapter 102 and R.C. 2921.42, found in Appendix D of this manual. By their signature on Appendix A, they also acknowledge receipt of these regulations and agree to abide by them.
- F. No employee shall disclose confidential or proprietary information concerning the property, government, or affairs of the City without proper legal authorization.
- G. No employee shall accept any gift of value in the form of service, loan, item or promise from any person, firm, or organization which maintains an interest in any business dealings with the City, or that may tend to influence a municipal employee in the proper discharge of official City duties. An employee who is offered something of substantial value shall report the offer to his or her supervisor as soon as possible after the incident.
- H. An employee shall not engage in any matter which represents a conflict of interest with the City, or undermines the integrity of Mt. Healthy Government.
- I. While no employee is expected to endure personal attacks or unlawful behavior from the public, in the event such personal attacks or unlawful behavior is directed toward the employee, he or she shall not respond in kind.
- J. Employees who have any doubt regarding possible violations of the ethical standards set forth herein are advised to consult with their supervisor or the Department/ Division Head prior to engaging in any potentially affected activity.
- K. Failure of any City official or employee to abide by this Ethics policy, or to comply with the Ethics Law and related statutes, will result in discipline, which may include dismissal, as well as any potential civil or criminal sanctions under the law.

LATE ARRIVAL**SECTION 6.01**

- A. Late arrival on a regular basis is inexcusable and will not be tolerated. Late arrival is defined as any situation where an employee reports to work after his or her scheduled starting time. Whenever a covered, nonexempt employee is late, that employee shall be subject to a reduction in pay corresponding to the amount of time he or she was late, unless he or she offers to the supervisor a written reason for being late which is deemed acceptable by the supervisor.

In addition, if an employee is late, that employee may be subject to appropriate disciplinary action, unless he or she offers to the supervisor a written reason for being late which is deemed acceptable by the supervisor.

- B. Employees shall be responsible for reporting to work at the place designated by their immediate supervisor.
- C. Employees shall not leave their work area and quit working prior to their scheduled quitting time.
- D. Although FLSA exempt employees shall not suffer any loss of pay under this policy, every FLSA exempt employee is required to report to work promptly at his or her scheduled starting time. Exempt employees who are late will be subject to appropriate disciplinary action.
- E. Various City departments may have attendance/tardiness regulations which impose discipline for aggregate numbers of absenteeisms/tardinesses. Please refer to these additional regulations for further information.

NOTIFICATION OF ABSENCE**SECTION 6.02**

The Employer firmly believes that absenteeism increases the workload of other employees and thus affects the quality of municipal services. Good attendance habits are encouraged and required.

- A. Employees are expected to promptly report to work at their scheduled starting time. Failure to comply with this work requirement will result in disciplinary action.
- B. The employee must report all absences from work that are not approved in advance to the employee's immediate supervisor or designee, within one (1) hour before the employee's scheduled starting time on each day of such absence, unless other arrangements are made with the employee's supervisor. Department/Division Heads may set different report-in times as operations require with the approval of the City Manager. Only absences logged by the Department/Division Head, immediate supervisor, or designee will be considered for approval. Employees must make every reasonable effort to contact the supervisor or the person designated to take notifications of absence. Merely reporting through a coworker is noncompliance.

- C. Under certain circumstances, the Department/Division Head, supervisor, or designee may require an employee to provide documentation before an absence (for example, Military Leave or foreseeable Family and Medical Leave), or during an absence (for example, to certify the need for Family and Medical Leave).

If an employee is absent for reasons that may qualify for Family and Medical Leave, the Employer must notify the employee whether the Employer considers the leave to be Family and Medical Leave within two (2) business days, and in any case, before the employee returns to work. Oral notification must be followed up in writing by the next payday (see section on Family and Medical Leave).

When an employee returns to work following an absence, such employee must immediately report to his or her immediate supervisor or designee. The employee may be issued a form to complete, which allows the employee to further explain the reasons for his or her absence. The employee may also be required to submit additional written documents which substantiate the employee's reason for absence. The form and other written documentation will be reviewed by the Department/Division Head or designee to determine whether the absence will be approved.

- D. An employee who misses three (3) or more days of work due to illness or injury must present written evidence of such illness or injury from a licensed, practicing physician upon return to work.
- E. Proper notification of absence and the underlying reasons is a serious matter, especially for Family and Medical Leave administrative purposes. Consequently, noncompliance may subject an employee to serious disciplinary action.
- F. Employees shall always notify their immediate supervisors when they leave work and when they return, as such notification shall avoid undocumented absences for extended periods of time.
- G. Offices or departments with twenty-four (24) hour or shift operation require that absences be reported before the start of the shift. Employees should ask their supervisor for additional office or department/division rules.

APPEARANCE**SECTION 6.03**

- A. The City reserves the right to prescribe appropriate dress and grooming, and to set standards which are in the best interest of the City. Some departments may have uniform or name tag requirements in addition to the rules in this manual.
- B. All employees of municipal government are expected to reflect their professional work in their manner of dress. Generally, neat and clean attire and personal grooming is called for. Hair is to be neat, clean, and styled; beards trimmed. Notwithstanding this policy, Department/Division Heads may designate "dress-down" day for their employees.

SOLICITATION AND DISTRIBUTION**SECTION 6.04**

This policy on Solicitation and Distribution is designed to protect the interests of the citizens of Mt. Healthy by ensuring that only official City business is transacted in the several work areas during employee work time.

- A. **Non-employee Solicitation and Distribution:** There shall be no solicitation and/or distribution by nonemployees at any time on any City premises or in any work area without the prior approval of the City Council. This section does not apply to vendors as defined in the Definitions Section of this policy.
- B. **Employee No Solicitation/Distribution Rule:** There shall be no solicitation or distribution by employees of any other employee or non-employee during work time. Employees may solicit other employees during non-work time in work areas, and during non-work time in non-work areas. There shall be no distribution during work time or non-work time in work areas. Employees may distribute goods and written materials during non-work time and in non-work areas.
- C. **Employer's Responsibility:** It is the responsibility of the City Manager to promulgate rules for the enforcement of this policy, and to further specify work time and non-work time, and work areas and non-work areas. These rules shall be clearly posted on the City's premises and distributed to each employee.
- D. For the purposes of this policy the following definitions shall apply:

City: means the City of Mt. Healthy, Ohio.

Distribution: means an act of distributing goods, materials, and/or written materials.

Employee: means any person in the employ of the City in any status.

Non-work Area: means any area on or off the City's premises not designated as a work area.

Non-work Time: means any time during an employee's work day where the employee is totally relieved of work duties, such as break time and lunch time. Whether an employee is in paid or unpaid status during these times is immaterial to the designation of non-work time.

Solicitation: means an act of requesting an individual to purchase goods, materials, or services, or a plea for financial contribution.

Vendor: means any individual or group engaged in or desiring to engage in the supply of goods, materials, or services to the City, which goods, materials, or services are utilized in the conduct of public business.

Work Area: means any office, building, or physical location where official City business is transacted and/or operations of the City are being conducted. This includes any public or private area where employees are engaged in work activities.

Work time: means all the time when an employee's duties require that he or she be engaged in work tasks, but does not include the employee's own time, such as meal periods, scheduled breaks, and time before or after a work shift.

SOCIAL NETWORKING**SECTION 6.05**

- A. **Purpose:** The purpose behind this policy is to make an employee aware of his or her privacy rights and prohibited conduct with respect to an employee's actions and its impact on the City when using social networking sites on and off duty. Moreover, this policy is intended to ensure efficient use of employee time and to minimize any distraction from an employee's assigned tasks and duties. It will also allow the City to ensure that City Work Rules and Regulations are followed and all employees are treated fairly and consistently.
- B. **Scope:** All employees will be subject to and held accountable for any conduct outlined in the Social Networking Policy. This policy works in conjunction with other related Rules and Regulations.
- C. **Consent:** An employee's use of such technology constitutes consent to being monitored by the City.
- D. Social Networking refers to the use of websites such as, but not limited to, Facebook, Myspace, Twitter, LinkedIn, Flickr. For purposes of this policy, Blogs and other internet forums of communication will also be referenced. Nothing in this policy is meant to prohibit access to any website or Blog which may be work-related.
- E. **Policy.**
1. **On Duty Conduct:** While at work, an employee may only access social networking websites, Blogs and/or other internet forums of communication during their lunch or breaks. This includes access from a personal cellular device (E.g., BlackBerry device, Smartphone, iPhone, etc.) during an employee's hours of work. Employees found to have violated this policy may be subject to discipline up to and including termination.
 2. **On/Off Duty Conduct:** An employee enjoys no expectation of privacy to information posted into cyberspace even while off duty. This includes anything posted to a social networking website, Blog, or other similar internet forum of communication. Although information may be posted to a "private" webpage, the employee should be aware this information can still be accessed by the public and other sources in a number of ways. Because of this, an employee needs to use "commonsense" when posting comments, photos, opinions, or any other information related to his or her employment. By no means is this policy meant

to infringe upon an individual's First Amendment rights or to impair protected speech under R.C. 4117; however, this shall serve as notice to an employee that anything that reflects negatively on the City or its mission may be used as grounds for discipline up to and including termination. Examples of prohibited conduct include, but are not limited to:

- a. Posting one's photograph while wearing a City uniform (or other similar attire, which could be misidentified as the official uniform);
 - b. Posting pictures, videos, or comments that are insubordinate with respect to the employee's employment;
 - c. Posting pictures, videos, or comments that constitute or could be construed as unlawful behavior;
 - d. Knowingly or recklessly posting false information about the City, supervisors, coworkers, public officials, or those who have a relationship with the City. This also includes disparagement of a fictitious character or computer-generated likeness that resemble the above.
 - e. Posting, transmitting, or disseminating any pictures or videos of official training, activities, or work-related assignments without the express permission of a supervisor.
 - f. Posting pictures, videos, or comments that are sexual, violent, offensive, harassing, bullying, or pornographic in nature along with a reference to the City or the employee's employment.
3. Employees shall not imply they are speaking on behalf of the City and shall include a disclaimer when speaking on certain matters affecting the City or the employee's employment.
 4. Confidential Information: An employee shall not disclose any work-related confidential or proprietary information on any social networking website, Blog, or other internet forum of communication. This can include information that may eventually be obtained through a valid public record's request.
 5. Employees found to have violated any part of this policy may be subject to discipline up to and including termination.
 6. Any deviation from the above policy shall be approved by the City.
 7. Employees shall direct questions regarding the policy to their immediate supervisor.

USE OF VEHICLES

SECTION 6.06

A. **Use of Municipally-owned Vehicles.**

1. Municipally-owned vehicles are to be used for official business only. No one, except Municipal employees, may ride in public vehicles, unless for authorized Municipal business. Employees required to retain vehicles overnight shall not use such vehicles for private business.
2. Municipal vehicles will be furnished for or used as transportation between work and employee's place of residence only when a determination has been made by the City Manager that such use is necessary in extraordinary conditions. Such decision will be in writing and furnished to the employee.
3. Before employees will be permitted to operate a Municipal vehicle, they will be required to have a current valid Ohio operator's license and, where necessary, a CDL license. Failure to retain or maintain a license for any reason must be reported to the employee's supervisor immediately. Employees who fail to retain or maintain a required license may be subject to discipline, including termination.
4. Employees operating Municipal vehicles shall observe all traffic laws and Ordinances. Employees shall not text or check e-mail while operating a City-owned vehicle or personal vehicle on City business. Violation of the rules adversely affects public opinion of the Municipal Government. Municipal employees who demonstrate careless disregard of traffic regulations may be charged with improper conduct under the discipline section of this manual.
5. Before employees (and volunteer firefighters who are permitted to operate their own vehicles as emergency response units) will be permitted to operate a Municipal vehicle, they will be required to submit to a Motor Vehicle Records check (MVR) every year. Traffic incidents appearing on the MVR will be reviewed and discussed with the respective employee. If the insurer refuses coverage if an employee with an adverse MRV record is driving, that employee will be disqualified from operating a City vehicle.
6. The City or a designated representative may check periodically employees' license status and driving records.

B. **Use of Passenger Vehicles by Officials:** Council may designate certain Officials who are on call twenty-four (24) hours a day to drive a Municipally-owned or leased car to and from their residence, and for uses which are primarily for government business. From time to time, Council may, by employment contract or other action, determine rules for such use by Officials and other incidental drivers. In the absence of Council action, the City Manager may determine additional rules for such use, if necessary.

C. **Use of Private Vehicles:** The Employer, upon recommendation of the Department/Division Head, must approve the use of an employee's private vehicle for

official Municipal business. If an employee is required to use his or her car in the performance of official duties for the Municipality, he or she will receive either a monthly car allowance or be paid mileage for the use of his or her car on official Municipal business.

Other arrangements at lower levels of reimbursement may be necessary to meet particular situations. Agreements should be reached in advance, and must be approved by the Employer.

All employees who operate privately-owned vehicles for official Municipal business must possess automobile insurance in amounts which satisfy Ohio financial responsibility laws. Those who drive daily are required to maintain a level of coverage which will provide for adequate liability protection (i.e., at least \$300,000.00 combined single limit, or \$100,000.00 per person, \$300,000.00 per accident, and \$50,000.00 property damage). Each employee will be required to provide proof of personal auto insurance once annually, a record of which will be maintained on file.

Failure to possess personal automobile insurance will subject the employee to the loss of driving privileges until adequate insurance coverage is purchased. Loss of insurability due to poor driving performance will also result in suspension of driving privileges until the situation is reconciled and may be considered cause for termination if driving is an essential function of the employee's position. In either case, delays in securing necessary insurance may subject the employee to disciplinary procedures pursuant to this manual.

D. **Accidents with Municipally-owned Vehicles:** If any Municipal employee becomes involved in an accident while operating a Municipally-owned vehicle or a private vehicle on official business, he or she must:

1. Notify the appropriate local law enforcement and the Mt. Healthy Police Department immediately;
2. Urge that all parties involved remain at the scene of the accident until the law enforcement agency or Police can investigate;
3. Report the accident, no matter how small, to the Department/Division Head;
4. The Department/Division Head will report it immediately to the City Manager, the insurance company, and where applicable, have the employee fill out injury and/or accident reports and see to it that other necessary reports are filed;
5. Submit to a substance abuse examination as described in Section 6.11 of this manual.

The employee should not discuss the accident with anyone but the investigating officer, his or her Supervisor, or anyone authorized by the Municipality to receive the information.

- E. If any Municipal employee becomes involved in an accident while operating a Municipally-owned vehicle or a private vehicle on official business, such accident will be reviewed by an Accident Review Board. This Board will examine all relevant evidence and will determine whether remedial driving training is necessary and required of the employee. Such remedial training is considered a learning tool and will not be used as a punitive action.
- F. Violations of any of the rules of this section will be considered a Group III offense and may result in discharge.

TOOLS, SUPPLIES, AND EQUIPMENT**SECTION 6.07**

- A. When tools, supplies, or equipment are needed to perform job duties are provided by the employer, it is the responsibility of supervisors to see that they are properly used and maintained.
- B. Misuse, neglect, theft, and/or abuse of tools, supplies, or equipment is prohibited. Accidents involving misuse or abuse of tools or equipment will be cause for disciplinary action. Loss of tools or damage to equipment may require payment by the employee for those items lost or damaged, at the discretion of the City.
- C. All tools, supplies, or equipment utilized by the employee in the performance of his or her job are subject to prior approval of the City.
- D. City employees have an obligation to use public property for public purposes and to avoid wasting public resources. An employee may dispose of an item which is damaged or broken; however, the employee must have permission to dispose of an item with a value of one hundred dollars (\$100.00) or more. Under no circumstances may an employee take the item for personal use, for use by another person, or for gain by reselling.
- E. The City Manager or designee shall determine whether or not to make a claim for damaged or stolen equipment or vehicles against any applicable insurance policies.

USE OF TELEPHONES / PERSONAL MAIL**SECTION 6.08**

- A. Excessive use of telephones for other than business purposes without prior supervisory approval shall result in disciplinary action.
- B. Employees shall discourage persons from telephoning them at work for reasons other than emergencies.
- C. Employees shall not use the addresses of the Municipal Building or other city-owned facility for receipt of regular personal mail.

BULLETIN BOARDS**SECTION 6.09**

- A. It is the policy of the City of Mt. Healthy to maintain all facility bulletin boards as a means of communicating information to employees. All material that is to appear on City of Mt. Healthy bulletin boards shall be posted and removed by the facility designated representative of the Department/Division in which the bulletin board is located. No notices shall initially be posted on any municipal office door, or such notice(s) shall be discarded.
- B. All agency, federal, and state required notices and other legally required notices shall be posted in an area visible to all employees. Information of a general public interest may be posted by the designated representative if the information does not contain the following:
1. Personal attacks upon any employee or public officer;
 2. Scandalous, scurrilous, or derogatory attacks on the City Council, administrators, supervisors, or other personnel;
 3. Comments regarding candidates for public office.
- C. Any material posted in violation of this policy shall be removed from the facility bulletin board.
- D. Violators of this policy shall be subject to disciplinary action, as specified in the discipline policy.

GAMBLING**SECTION 6.10**

The City does not permit gambling in any form by its employees during work time. For the purpose of this policy, work time includes regular working hours, lunch periods at the work place, clean-up time, and other breaks. Violation of this policy will be cause for disciplinary action.

ALCOHOL MISUSE AND DRUG ABUSE IN THE WORKPLACE**SECTION 6.11**

This is the City of Mt. Healthy's Drug Free Workplace policy:

- A. **Notice Upon Hiring.**
1. As a condition prior to hiring, all prospective employees will receive a copy of the Mt. Healthy Drug Free Workplace Statement and Policy, and Drug Testing Policy, and will be required to sign a receipt which will become a permanent part of the employee's personnel file.

2. In addition, as a further condition precedent to hiring, all prospective employees will be required to sign a written statement to the effect that:
 - a. They understand and support the Mt. Healthy Drug Free Workplace Policy;
 - b. They agree to refrain from violating this policy while employed by the City;
 - c. They acknowledge, in advance, that they understand that the penalty for breach can be discharge, and agree that the penalty is appropriate when supported by evidence; and
 - d. They acknowledge that they have been warned that alcohol and drug testing of employees will be conducted in accordance with the City's policy where there is individualized reasonable suspicion of alcohol or drug use or drug impairment.

B. Distribution of Drug Free Workplace Policy.

1. All current employees will receive a copy of the City's Drug Free Workplace Statement and Policy, and will be required to sign a receipt for it, which will become a permanent part of the employee's personnel file.
2. All current employees will be asked to voluntarily sign a statement supporting the strict enforcement of this policy.
3. All current employees will be given notice that the City reserves the right to order employees to submit to alcohol or drug testing where supported by an individualized reasonable suspicion of alcohol or drug use or drug impairment.

C. The Drug Free Workplace Policy.

1. DEFINITIONS.

Alcohol: means the intoxicating agent in beverage alcohol, ethyl alcohol, or other lower molecular weight alcohols including methyl and isopropyl alcohol.

Controlled Substance: means any controlled substance continued in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812); or as defined in R.C. 3719.01.

Conviction: means any finding of guilt, including a plea of nolo contendere (no contest) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.

Criminal Drug Statute: means a criminal statute which states that a person may not manufacture, distribute, dispense, use, possess, provide, or administer any controlled substance.

For purposes of this policy all definitions will be consistent with R.C. 3719.01 *et seq.*

2. **POLICY.**

- a. It is the policy of the City of Mt. Healthy to maintain a safe and productive workplace free of alcohol and drugs and free of those individuals who use drugs and alcohol.
- b. The unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled substance by any employee which takes place in whole or in part in the workplace is strictly prohibited and will result in criminal prosecution and employee discipline which may include termination from employment.
- c. Any employee convicted of any federal, state, or municipal criminal drug statute must notify the Employer of that fact within five (5) calendar days of the conviction. Notification of the employee does not excuse that employee from possible disciplinary action under the City's Personnel Policy Manual.
- d. Any employee who reports for duty in an altered or impaired condition which is the result of the illegal use of controlled substances or the abuse of legal substances will be subject to disciplinary action or discharge. Any decision to take such action may be held in abeyance pending the completion by the employee of a drug rehabilitation program.
- e. Any employee convicted of a drug offense, who fails to report the conviction as required by the above, will be:
 - (1) Terminated from employment;
 - (2) Forever barred from future employment with Mt. Healthy; and
 - (3) Held civilly liable for any loss of federal funds resulting from the failure to report the conviction.

D. **The Drug Testing Policy.**

1. **Applicant Drug Testing:** Applicants for full or part-time, year-round positions shall be required to sign a written waiver and consent form and take a drug test as a condition of employment. Additional rules apply specifically for Commercial Driver's License holders.

2. **Employee Drug Testing:** The City reserves the right to set standards for employment and to require employees, as a condition of continued employment, to submit to physical examinations including breath or urine tests for alcohol, illegal drugs, or the misuse of legal drugs where there is reasonable suspicion that an employee's work performance is, or could be, affected by the condition, or the employee has been involved in an accident while operating a City vehicle or machinery.
 3. In cases in which the City has a reasonable suspicion to believe that the employee is in an altered or impaired condition as the result of the influence of alcohol or the controlled substances referenced in Paragraph C above, the City may require the employee to go to a medical clinic, at the City's expense, to provide breath or urine specimens. For purposes of this policy, "reasonable suspicion" means suspicion based on personal observation by a City representative. City representatives should document such reasonable suspicion by making written notations which may include descriptions of inexplicable or abnormal behavior, appearance, speech, or breath.
 4. If requested, the employee will sign a waiver and consent form authorizing the clinic to examine a specimen of breath or urine and release the test results to the City.
 5. A refusal to sign a waiver and consent form or to provide either specimen will constitute insubordination and a presumption of impairment and may result in discharge.
 6. Any employee tested in accordance with the above procedure may, if the test results are positive, request retesting at the City's expense; or may request, in advance of the original test, that a portion of the original specimen be delivered to a third party for testing at the employee's expense.
 7. The results of any such test will constitute medical information and will remain confidential in accordance with state law.
- E. **Policy Distribution:** Each employee will receive annually an information package containing:
1. Information concerning the dangers of drug abuse in the workplace;
 2. A current copy of the City's published statement;
 3. A current copy of the City's Drug Free Workplace Policy;
 4. A current copy of the City's Drug Testing Policy;
 5. Information concerning any available drug counseling, rehabilitation, and employee assistance programs;

6. Information concerning the penalties that will be imposed for the breach of the City's Drug Free Workplace Policy;
7. Notice to the employee that any work-related conviction of any federal or state criminal drug statute must be reported in writing to the City within five (5) calendar days after such conviction.

F. **Training.**

1. All employees and supervisors will receive annual training in the dangers of drug abuse.
2. All supervisors and managers will receive annual training in the enforcement of this policy.

ALCOHOLISM AND DRUG ABUSE / EMPLOYEE ASSISTANCE PROGRAM

SECTION 6.12

The City of Mt. Healthy recognizes alcoholism and drug addiction as diseases which may be treatable, and encourage those employees who may have a drinking or drug abuse problem to seek professional treatment assistance.

- A. For the purpose of this policy, a drinking or drug abuse problem exists, in the eyes of the Employer, when an employee's alcohol consumption or drug use begins to interfere with his or her job performance.
- B. This policy is intended to ensure that no employee with a drinking or drug problem will have his or her job security or promotional opportunities jeopardized by a request for treatment. On the other hand, this policy does not excuse employees from discipline or corrective action initiated by the Employer for unsatisfactory performance or work-related misconduct. Rather, this policy is intended to help employees who themselves initiate requests for assistance. The individual's rights to confidentiality and privacy are recognized. The pertinent information and records of employees with drinking or drug problems will be preserved in the same manner as all other medical records.
- C. It will be the responsibility of the employee to comply with the referral for diagnosis and to cooperate with the prescribed treatment. An employee's refusal to accept diagnosis or treatment, or failure to respond to treatment, will be handled in the same manner as for all other illnesses when job performance continues to be adversely affected.
- D. Implementation of this policy will not require or result in any special regulations, privileges, or exemptions from the standard administrative practices applicable to job performance requirements.
- E. The City and supervisors shall not attempt to diagnose alcoholism or drug addiction. A referral, initiated by the City or supervisor, for diagnosis and treatment should be based

strictly on unsatisfactory or deteriorating job performance resulting from apparent medical or behavioral problems, whatever their nature.

- F. **Employee Assistance Program (EAP):** The City of Mt. Healthy is committed to the total health and well-being of its employees and to appropriately address the issues and personal problems which could benefit from counseling. Therefore, the City believes that it is in the best interest of the employees, families of employees and the community to provide an Employee Assistance Program (EAP).

Employees and their families are encouraged to seek assistance from the EAP as needed.

- G. Employees with questions on this policy or issues related to drug or alcohol use in the workplace should raise their concerns with their supervisor or with the City Manager without fear of reprisal.

DRUG & ALCOHOL POLICY FOR CDL DRIVERS**SECTION 6.13**

- A. **Purpose:** It is the policy of the City of Mt. Healthy that its CDL drivers be free of substance abuse and alcohol abuse. **Consequently, the use of illegal drugs by CDL drivers is prohibited. Further, on-duty CDL drivers shall not use alcohol or controlled substances, or engage in “prohibited conduct” as defined herein.** The overall goals of this policy is to ensure a drug and alcohol-free transportation environment and to reduce accidents, injuries, and fatalities. It is also intended to comply with Department of Transportation, Office of the Secretary, 49 CFR Parts 40, 382, 653, and 654.
- B. **Applicability:** This policy and the regulations that require it, applies to all employees subject to the CDL requirements found in Part 383 of the Federal Motor Carrier Safety Regulations.
- C. **Types of Tests:** Pursuant to regulations promulgated by the Department of Transportation (DOT), the City of Mt. Healthy has implemented six (6) circumstances for drug and/or alcohol tests: (1) preemployment testing; (2) post-accidental testing; (3) random testing; (4) reasonable suspicion testing; (5) return-to-duty testing; and (6) follow-up testing.
- D. **Preemployment Testing:** All applicants for a position that requires a CDL license must submit to preemployment testing of urine drug tests. The City must verify that no prior employer of the applicant has records indicating a violation of any DOT rule pertaining to alcohol or controlled substance use within two (2) years before the date of the employee’s application or transfer. The City is required to obtain such information within fourteen (14) days after the first time the driver performs safety-sensitive functions.
- E. **Random Testing:** The City of Mt. Healthy conducts **random** drug and alcohol testing. Random testing dates and selections should not be announced in advance of the test. The City of Mt. Healthy or its agents will submit all drivers of commercial vehicles to a

random selection process. The random selection system must be a scientifically valid method of selection that provides an equal chance for each CDL driver to be tested each time a random selection occurs. Random selections will be reasonably spread throughout the year. The City of Mt. Healthy will drug test, at a minimum, 50% of the average number of CDL driver positions in the random selection pool each calendar year. The City will select, at a minimum, 10% of the average number of CDL driver positions in the random selection pool for random alcohol testing. Random selection, by its very nature, may result in CDL drivers being selected in successive selections or more than once a calendar year. Alternatively, some CDL drivers may not be selected in a calendar year.

If a CDL driver is selected at random, for either the drug or the alcohol testing, a City official will notify the employee. **Once notified, every action the employee takes must lead to a specimen collection.** If the employee engages in conduct which does not lead to a specimen collection as soon as possible after notification, such conduct may be considered a refusal to test.

- F. **Post-accident Testing:** When a CDL driver is involved in an accident involving a commercial motor vehicle which results in: a fatality; bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or one (1) or more motor vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle (49 CFR Part 390, § 390.5; 49 CFR Part 653, §653.7; 49 CFR Part 654, §654.7), the employee must contact the Municipal office **as soon as possible**.

Following an accident which requires testing, the employer, or its designee, is required to transport the covered employee to the collection and/or testing site. An alcohol test must be performed within eight (8) hours and a controlled substances test must be performed within thirty-two (32) hours following the accident.

If the required tests are not administered within the time limits above, a written record must be maintained citing the reasons for the delay or the failure to administer the tests.

An employee who is subject to a post-accident test is required to remain available for such tests, and the employee must refrain from consuming alcohol for up to eight (8) hours following the accident, or until he or she submits to an alcohol test, whichever occurs first.

In the event that federal, state, or local officials conduct breath or blood tests for the use of alcohol and/or urine tests for the use of controlled substances following an accident, these tests shall be considered to meet the requirements of this section, provided the tests conform to applicable federal, state, or local requirements. The employee will sign a release allowing the City to obtain the test results from the federal, state, or local officials.

- G. **Reasonable Suspicion Testing:** If a supervisor, who has received the required training, suspects that a CDL driver employee is under the influence of alcohol or controlled substances, the employee is required to submit to a reasonable suspicion test for either

alcohol, controlled substances, or both. Reasonable suspicion is the belief that the employee has violated the alcohol or controlled substances prohibitions, based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee (49 CFR Part 382, ' 382.307; 49 CFR Part 653, ' 653.43; 49 CFR Part 654, ' 654.37).

Following an observation and after establishing that reasonable suspicion exists, the employee must be immediately removed from performing safety-sensitive functions. In the case of a reasonable suspicion test for the presence of alcohol, the required observations required must be made during, just preceding, or just after the period of the workday that the employee actually performs safety-sensitive functions.

The employee must be transported to the collection or testing site by the employer, or a designee.

Once a determination has been made, the testing should occur within two (2) hours, but in no case may it occur after eight (8) hours have elapsed. If the test is not administered within the proper time limits, a record must be maintained citing the reason the test was delayed or not administered.

The supervisor or official making the determination is required to complete a written record of the observation and the basis for the determination that the employee should be tested.

- H. **Refusal to Test:** Refusal to submit to the applicable types of drug and alcohol tests employed by the City of Mt. Healthy will be **grounds for refusal to hire an applicant and to terminate employment of an existing employee.** A refusal to test is defined to be **conduct, which could obstruct the proper administration of a test,** (See 49 CFR part 40, §§40.191 and 40.261). A delay in providing a urine or breath specimen could be considered a refusal. If a CDL driver cannot provide a sufficient urine specimen or adequate breath, he/she will be evaluated by a physician of the City's choice. If the physician cannot find a legitimate medical explanation for the inability to provide a specimen (either urine or breath), it will be considered a refusal to test. In that circumstance, the CDL driver has violated one of the prohibitions of the regulations.
- I. **Prohibited Conduct:** For the purposes of this program, the following shall be considered "**prohibited conduct**":
1. No CDL driver shall report to duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of .04 or greater.
 2. No CDL driver shall be on duty or operate a commercial motor vehicle while the driver possesses alcohol unless the alcohol is manifested and transported as part of a shipment.
 3. No CDL driver shall use alcohol while performing safety-sensitive functions.

4. No CDL driver shall perform safety-sensitive functions within four (4) hours after using alcohol.
5. No CDL driver required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he or she undergoes a post-accident alcohol test, whichever occurs first.
6. No CDL driver shall refuse to submit to a post-accident, a random, a reasonable suspicion, a return-to-duty, or a follow-up breath alcohol or urine drug test.
7. No CDL driver shall report for duty or remain on duty when the CDL driver uses any controlled substance, except when use is pursuant to the instructions of a physician who has advised the CDL driver that the substance does not adversely affect the CDL driver's ability to operate commercial motor vehicle, and such has been communicated to the City.

If the City has actual knowledge or has reason to believe that a CDL driver has engaged in prohibited conduct, the City may require the CDL driver to submit to drug and/or alcohol testing.

If a CDL driver engages in prohibited conduct, the CDL driver is not qualified to drive a commercial motor vehicle and shall be immediately removed from service. The City may in its discretion, at the request of the CDL driver, keep the driver's position open while such CDL driver attempts to become requalified. The City may also take disciplinary action against the CDL driver up to and including termination.

- J. **Consequences of Policy Violation:** Any CDL driver who becomes unqualified or engages in prohibited conduct as set forth herein may be subject to disciplinary action, up to and including termination of employment.
- K. **Other Definitions:** For the purpose of this program, performing a **safety-sensitive function** includes all of the following:
 1. All time inspecting, servicing, or conditioning any commercial vehicle;
 2. All driving time;
 3. All other time spent in or on any commercial motor vehicle;
 4. All time spent loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate a vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
 5. All time spent dealing with motor vehicle accidents;
 6. All time repairing, obtaining assistance, or remaining in attendance of a disabled vehicle.

For purposes of this program, **alcohol** means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol.

For purposes of this program, a **commercial motor vehicle** means any vehicles which:

1. Has a gross combination weight rating of 26,001 or more pounds, inclusive of a towed unit with a gross vehicular weight rating of more than 10,000 pounds;
2. Has a gross vehicle weight rating of 26,001 or more pounds;
3. Is designed to transport sixteen (16) or more passengers, including the driver; or
4. Is used to transport hazardous materials;

- L. **Substance Abuse Evaluation:** Any CDL driver who engages in **prohibited conduct** shall be provided with the names, addresses, and telephone numbers of qualified substance abuse professionals. If the CDL driver desires to become requalified, the CDL driver must be evaluated by a **Substance Abuse Professional (SAP)** and submit to any treatment prescribed by the SAP. The cost of any SAP evaluation or prescribed treatment shall be borne by the CDL driver. Following evaluation and successful completion of prescribed education and/or treatment, the CDL driver must submit to and successfully complete a **return-to-duty** drug and/or alcohol test in order to become requalified. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than .02 before resuming safety-sensitive duties. However, the City does not guarantee or promise a position to the CDL driver should he or she regain qualified status.

Such CDL driver is also subject to **follow-up testing**. Follow-up testing is separate from and in addition to the City's reasonable suspicion, post-accident, and random testing procedures. Follow-up testing shall be on a random basis and be in accordance with instruction of the SAP. Follow-up testing may continue for a period of up to sixty (60) months following the drivers return to duty. No fewer than six (6) tests shall be performed in the first twelve (12) months of follow-up testing.

- M. **Authorization for Previous Test Records:** Within fourteen (14) days of performing a safety-sensitive function, federal regulations require that the City obtain certain drug and alcohol testing records from the CDL driver's previous employer(s) for the past two (2) years. As a condition of employment, the employee shall provide the City with a written authorization for all previous employer(s) within the past two (2) years to release such drug and alcohol testing records as are required under federal regulation.

- N. **Drug Tests:** Drug testing will be performed through **urinalysis**. Urinalysis will test for the presence of the following specified drugs or classes of drugs:

1. **Marijuana metabolites;**
2. **Cocaine metabolites;**
3. **Opiate metabolites;**

4. **Amphetamines; and**
5. **Phencyclidine (PCP).**

The urinalysis procedure starts with the collection of a urine specimen by a qualified collector who has been properly trained pursuant to Subpart C of 49 CFR Part 40. Urine specimens will be submitted to a laboratory for testing that is certified by the Department of Health and Human Services (DHHS) under the National Laboratory Certification Program (NCLP). As part of the collection process, the specimen provided will be split into two (2) vials — a primary vial and a secondary vial. The DHHS certified laboratory will perform screenings on all primary vials.

All laboratory results will be reported by the laboratory to a Medical Review Officer (MRO) designated by the City. All results are reviewed by the MRO or the MRO's supervised staff. Negative tests shall be reported by the MRO to the City. Before reporting a positive test result to the City, the MRO will attempt to contact the employee to discuss the test result. If the MRO is unable to contact the employee directly, the MRO will contact the designated employer representative (DER) who shall in turn contact the employee and direct the employee to contact the MRO. Upon being so directed, the employee shall contact the MRO immediately or, if after the MRO's business hours and the MRO is unavailable, at the start of the MRO's next business day. In the MRO's sole discretion, a determination will be made as to whether the result is positive or negative.

Pursuant to DOT regulations, individual test results for applicants and employees will be released to the City and will be kept strictly confidential unless consent for the release of the test result has been obtained. Any individual who has submitted to drug testing in compliance with this policy is entitled to receive the results of such testing upon timely written request.

Any employee testing positive for a controlled substance may make a request of the MRO to have the secondary vial tested. The employee may request that the secondary vial be tested by a different DHHS certified lab than the one that tested the primary specimen. The City may seek reimbursement of all or part of the cost of the split specimen from the employee. The request for testing of a secondary vial shall be made to the MRO within seventy-two (72) hours of the employee being notified by the MRO of a positive test result.

- O. **Alcohol Test:** The City will perform **alcohol** tests using an **evidential breath-testing device** at an alcohol testing site. The City may provide use of an evidential breath-testing device through a vendor or agent. The employee shall report to the site of an evidential breath-testing device as notified by the City. The evidential breath-testing device will be operated by a breath alcohol technician. The employee shall follow all instructions given by the breath alcohol technician. **In the event that the employee, on the bases of the evidential breath tests, has a blood alcohol content of .02 to .0399, the employee shall be removed from duty for twenty-four (24) hours or until his/her next scheduled on duty-time, whichever is longer.** Employees are not medically qualified until after the twenty-four (24) hour time frame expires. **Employers with tests indicating a blood alcohol concentration of .04 or greater are considered to have**

engaged in prohibited conduct which may result in disciplinary action up to and including termination. All alcohol tests shall be performed just prior to, during, or just after duty.

- P. **Training:** The City shall ensure supervisors designated to determine whether reasonable suspicion exists to require an employee to undergo testing under the “reasonable suspicion” clause of this policy receive at least sixty (60) minutes of training on alcohol misuse and receive at least an additional sixty (60) minutes of training on controlled substance use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

The City shall provide educational materials that explain the DOT requirements under 49 CFR Part 382, consequences of violating the regulations, and the City’s policies and procedures with respect to meeting those requirements. The materials supplied to employees will include the following minimum information:

1. The identity of the person designed by the City to answer questions concerning the materials;
2. The categories of employees who are subject to the DOT Alcohol and Controlled Substance Testing Rules/Program;
3. Sufficient information about the safety-sensitive functions performed by the employees;
4. Specific information concerning employee conduct that is prohibited by the rules and applicable policies;
5. The consequences for an employee found to have an alcohol concentration of 0.02 or greater but less than 0.04.

The materials supplied to employees may also include information on additional City policies with respect to the use of possession of alcohol or controlled substances, for example, the consequences for a driver found to have a specified alcohol or controlled substance level based on the employer’s authority independent of DOT. The City shall ensure each employee is required to sign a statement certifying that he/she has received a copy of these materials described in DOT Section 382.601. A copy of this signed statement will be provided to the employee.

- Q. **Recordkeeping:** According to Section 382.401, the City is required to maintain certain records of its alcohol misuse and controlled substance prevention program. These records must be maintained in a secure location. The following sections outline the information that must be maintained.

1. **Records to Be Maintained for an Indefinite Period.**
 - a. Records related to the education and training of breath alcohol technicians, screening test technicians, supervisors, and drivers shall be maintained by

the City while the individual performs the functions which require the training and for two (2) years after ceasing to perform those function;

- b. Materials on alcohol misuse and controlled substance use awareness, including a copy of the City's policy on alcohol misuse and controlled substance use;
- c. Documentation of compliance with the requirements of §382.601, including the driver's signed receipt of education materials;
- d. Documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for alcohol and/or controlled substances testing based on reasonable suspicion;
- e. Documentation of training for breath alcohol technicians as required by §40.213(a) of this title; and
- f. Certification that any training conducted under this part complies with the requirements for such training.

2. Records to Be Maintained for a Minimum of Five (5) Years.

- a. CDL driver alcohol test results with results indicating an alcohol concentration of 0.02 or greater;
- b. Records of CDL driver verified positive controlled substances test results including chain-of-custody control form;
- c. Documentation of refusals to take required controlled substance and/or alcohol tests;
- d. Documents sent by the medical review officer to the City for positive tests, including those required by Section 382.407(a): the controlled substance test being reported in accordance with Part 40; the name of the individual for whom the test results are being reported; the type of test indicated on the custody and control form (e.g., random, post-accident, etc.); the date and location of the test collection; identity of the persons or entities performing the collection analysis of the specimens and serving as the medical review officer to the specific test;
- e. Verified results of controlled substances test, and the identity of the controlled substance(s) for which the test was verified positive;
- f. Documents presented by a CDL driver to dispute the result of an alcohol or controlled substances test; calibration documentation for evidential-breath testing devices; driver education and referrals; records pertaining to

- a substance abuse professional's determination of a CDL driver's need for assistance;
- g. Records concerning a driver compliance with the substance abuse professional's recommendation;
 - h. Records related to other violations;
 - i. Copy of each annual calendar year summary required by Section 382.403.
 - j. Records related to the administration of alcohol and controlled substances testing programs; i.e., agreements with collection site facilities, laboratories, breath alcohol technicians, screening test technicians, medical review officers, consortia, and third party service providers; names and positions of officials and their role in the employer's alcohol and controlled substances testing program; semi-annual laboratory statistical summaries of urinalysis required by §40.111(a) of this title; and the employer's alcohol and controlled substances testing policy and procedures.
 - k. Documents generated in connection with verification of prior employers' alcohol or controlled substances test results that the employer must obtain as required by §382.413.
3. Records to Be Maintained for a Minimum of Two (2) Years.
- a. Records related to the alcohol and controlled substance collection process (except calibration of evidential-breath testing devices);
 - b. Collection logbooks, if used;
 - c. Documents relating to the random selection process;
 - d. Documents of breath alcohol technician training;
 - e. Documents relating to decisions to administer reasonable suspicion alcohol or controlled substance tests;
 - f. Documents in connection decisions on post-accident tests;
 - g. Documents verifying a medical explanation of the inability of a CDL driver to provide adequate breath or to provide a urine specimen for testing;
 - h. Consolidated annual calendar year summaries required by Section 382.403;

- i. Documentation of compliance with the requirements of Section 382.601, including the CDL driver's signed receipt of education materials;
 - j. Documentation of training provided to supervisors for the purpose for qualifying the supervisors to make determinations concerning the need for alcohol and/or controlled substance testing based on reasonable suspicion;
 - k. Certification that any training conducted under this part complies with the requirement for such training;
 - l. Agreements with collection site facilities, laboratories, medical review officers, and consortia;
 - m. Names and positions of officials and their roles in the City's alcohol and substance testing program;
 - n. Quarterly laboratory statistical summaries of urinalysis required by Section 40.29(g)(6);
 - o. The City's drug testing policy and procedures.
4. Records to Be Maintained for a Minimum of One (1) Year.
- a. Records of negative and canceled controlled substance test results and alcohol test results with a concentration of less than 0.02;
 - b. City's copy of the alcohol test form, including the negative result of a test;
 - c. City's copy of the negative controlled substances test chain-of-custody control form;
 - d. Documents presented by a CDL driver to dispute the result of an alcohol or controlled substances test;
 - e. Documents sent by a medical review officer to the employer for negative tests, including those required by Section 382.407(a): the controlled substances test being reported was in accordance with Part 40; the name of the individual for whom the test results are being reported; the type of test indicated on the custody and control form (e.g., random, post-accident, etc.); the date and location of the test collection; identity of the persons or entities performing the collection analysis of the specimens and serving as the medical review officer to the specific test;
 - f. Verified negative results of controlled substances test.
- R. **Reporting:** The City will, by March 15 of each calendar year, submit information summarizing the results of this program. In some instances (e.g., under the rules of the FHWA), the annual report must be submitted directly to the DOT with regulatory

authority over the City's program. In other instances the City may report information to the State of Ohio, who will file an annual report with DOT (based on DOT's final ruling).

The City is responsible for ensuring the accuracy and timeliness of each report submitted by or on behalf of the City.

- S. **Separability:** This policy is not intended nor should it be construed as a contract between the City and the employee. This policy may be changed at any time at the sole discretion of the City of Mt. Healthy.

CDL DRIVER NOTIFICATION / DISQUALIFICATION POLICY	SECTION 6.14
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- A. In accordance with 49 C.F.R. §383.37, the City of Mt. Healthy is prohibited from knowingly allowing, requiring, permitting, or authorizing a driver to operate a Commercial Motor Vehicle (CMV):
1. During any period in which the driver has a CMV driver's license suspended, revoked, or canceled by a state, has lost the right to operate a CMV in a state, or has been disqualified from operating a CMV.
 2. During any period in which the driver has more than one CMV driver's license.
 3. During any period in which the driver is subject to an out-of-service order.
 4. In violation of a federal, state, or local law or regulation pertaining to railroad highway grade crossings.

In order to comply with these standards, the City of Mt. Healthy has promulgated the following policy concerning all CDL holders employed by the City.

- C. All employees who operate a CMV are subject to this policy. This includes but is not limited to:
1. Full-time regularly employed drivers; casual, intermittent, or occasional drivers.
 2. For the purposes of pre-employment notification only, the term "driver" includes a person applying to the City of Mt. Healthy to drive a CMV.
 3. Employees promoted or transferred into a position requiring the operation of a CMV are treated as new hires for the purposes of this policy and pre-employment notification requirements.
- D. **Pre-employment Notification:** The City of Mt. Healthy is obligated to request information concerning an applicant's previous work history for the purpose of performing a pre-employment background investigation. See 49 C.F.R. 383.35 (b). Any driver applying for employment as an operator of a CMV, under 49 C.F.R. 383.35 (a), shall provide at the time of application for employment the following information:

1. An employment history for the ten (10) years preceding the date the application is submitted. Such history shall include:
 - a. A list of names and addresses of the applicant's previous employers for which the applicant was the operator of a CMV.
 - b. The dates the applicant was employed by those employers.
 - c. The reason for leaving such employment.
2. A certification that all of the information furnished pursuant to Section (1) is accurate and complete.

The City of Mt. Healthy, at its sole discretion, may require an applicant to provide additional information.

E. **Multiple Driver's Licenses:** No employee of the City of Mt. Healthy covered by Section B of this policy, shall at any time have more than one driver's license. See 49 C.F.R. §383.21.

F. **Notification of Convictions for Driver Violations.**

1. Each employee of the City of Mt. Healthy covered by Section B of this policy who is convicted of violating, in any type of motor vehicle, a state or local law relating to motor vehicle traffic control, must notify the City of such conviction. Violations covered under this subsection do not include parking infractions.
2. **Reporting Violations:** Notification of violations required under this section shall be made, in writing, to the applicable department head and the City Manager.
3. **Time Limits:** Notification of a violation under this subsection must be made within thirty (30) days after the date that the employee has been convicted.
4. **Information Required in the Notification:** The notification submitted by the employee in accordance with this subsection shall contain the following information:
 - a. Driver's full name.
 - b. Driver's license number.
 - c. Date of conviction.
 - d. The specific criminal or other offense(s), serious traffic violation(s), and other violation(s) of state or local laws relating to motor vehicle traffic control, for which the person was convicted and any suspension, revocation, or cancellation of certain driving privileges which resulted from such conviction(s).

- e. Indication of whether or not the violation was in a CMV.
- f. Location of the offense.
- g. Driver's signature.

G. Notification of Driver's License Suspensions.

- 1. Any employee who has a driver's license suspended, revoked, canceled, or loses the right to operate a CMV for any period, shall notify the City of Mt. Healthy of such suspension, revocation, cancellation, lost privilege, or disqualification.
- 2. Reporting: Notification under this section shall be made, in writing, to the applicable department head and the City Manager.
- 3. Time Limits: Notification under this section shall be made before the end of the next business day following the day the employee received notice of the suspension, revocation, cancellation, lost privileges, or disqualification.

H. If a driver/employee violates any of the notification provisions or prohibitions set forth in sections D, E, F, and G of this policy, the following consequences will result:

- 1. The driver shall be immediately removed from operating a CMV pending the results of an investigation into the alleged violation. Such removal is designed to give the City time to assess what effect, if any, the violation has on the driver's eligibility to operate a CMV, and therefore is not subject to the City's complaint procedure.
- 2. The driver may be disciplined, up to and including dismissal.

HOURS OF SERVICE

SECTION 6.15

All employees of the City of Mt. Healthy that operate a CMV cannot be on the clock for more than eighteen (18) hours in a twenty-four (24) hour period. Employees will need to be off the clock for a minimum of four (4) hours before another eighteen (18) hour limit may begin. When driving is involved, employees cannot be behind the wheel for more than sixteen (16) hours in a twenty-four (24) hour period. The eighteen (18) hour limit does not guarantee an employee a minimum amount of overtime.

The supervisor, at his or her discretion, may require an employee to go off the clock after considering the number of hours the employee has already worked or has been awake without rest. The supervisor may also adjust employees' hours to allow for multiple shifts during times of snow removal or emergency situations.

CONTACT WITH NEWS MEDIA**SECTION 6.16**

- A. Any employee contacted by the news media (e.g., radio, television, newspaper, etc.) on a story related to department/division operations should request the caller to contact the City Manager or designee. Individual department/division operations may allow different restrictions on contacts with news media. Please contact your department head for further details.
- B. This policy is designed to avoid duplication, assure accuracy, and to protect employees who might be accused of violation of confidential mandates. The intent of this policy is to be helpful to both staff and the media.

EMPLOYEE CONVICTION IN COURT OF LAW**SECTION 6.17**

- A. The arrest or conviction of any employee for breaking a federal, state, or local law outside work may be grounds for discipline, including suspension or dismissal, depending on the nature of the arrest or conviction as it relates to the position held by the employee. Careful consideration will be given to the effect the arrest or conviction has on the reputation and operation of the municipality and any of its programs.
- B. Violating any federal, state, or local law while at work may be grounds for dismissal depending on (1) the severity of the infraction; and (2) the overall status of employee performance and past conduct on the job.

GARNISHMENTS**SECTION 6.18**

- A. A court ordered legal claim against the wages of a municipal employee by a creditor for nonpayment of a debt and served by the constituted legal authority is a garnishment and must be recognized and executed by the City. Repeated garnishment on the wages of an employee can result in disciplinary action.
- B. When a garnishment is received for an employee, the following procedure of notification will apply:
 - 1. The City will schedule a conference with the employee and his or her supervisor to discuss the garnishment.
 - 2. The City will determine whether or not the employee has had previous garnishments of wages.
- C. If the garnishment is the first one received by an employee, the following procedure will apply:
 - 1. The employee will be called into the City's office and be advised of the consequences of further garnishments.

2. Every reasonable effort to counsel the employee through referral to an appropriate agency will be made by the City in order to assist the employee in working out his or her financial difficulties.
- D. If a second garnishment is received within a twelve (12) month period for a separate debt of the employee:
1. A meeting will be arranged between the employee and the City.
 2. The City will refer the employee to a credit counseling agency or other appropriate agency for assistance.
- E. If a third garnishment is received within a twelve (12) month period for a separate debt of the employee:
1. The City and the employee will meet with a legal advisor to discuss the consequences of the garnishment notice.
 2. The City will check to see if the employee sought assistance from a credit counseling agency or other appropriate agency.
 3. Depending upon the circumstances, the employee may be subject to disciplinary action consistent with the policy.
- F. No employee will be disciplined for garnishments where the employee has demonstrated a willingness and effort to resolve his or her financial problems.

OUTSIDE EMPLOYMENT**SECTION 6.19**

- A. Under no circumstances shall an employee have other employment which conflicts with the policies, objectives, and operations of the several offices of the City of Mt. Healthy. In addition, an employee shall not become obligated through employment to a second employer whose interests might be in conflict with those of the City office in which he or she works. Employees shall supply information on additional employment which may overlap their City employment to their supervisors/City in order for their supervisors/City to document any possible conflicting employment obligations.
- B. Employment "conflicts," as set forth in this policy, are when a second job impairs the employee's ability to perform the duties of his or her position.
- C. Full-time employment by the City shall be considered the employee's primary occupation, taking precedence over all other occupations.
- D. "Outside" employment, or "moonlighting," shall be a concern to the City only if it adversely affects the job performance of the employee's City job. Two (2) common employment conflicts which may arise are:

1. Time Conflict: defined as when the working hours required of a "secondary job" directly conflict with the scheduled working hours of an employee's job with the City, or when the demands of a "secondary job" prohibit adequate rest, thereby adversely affecting the quality of the employee's job performance with the City.
 2. Interest Conflict: defined as when an employee engages in "outside employment" which tends to compromise his or her judgment, actions, and/or job performance with the City.
- E. Should the City feel that an employee's outside employment is adversely affecting the employee's job performance, the City may recommend -- but may not demand -- that the employee refrain from such activity. However, any conflict, policy infraction, or other specific offense which is the direct result of an employee's participation in outside employment will subject the employee to discipline or discharge, in a manner that is otherwise consistent with the policies set forth in this manual.

PERSONNEL FILES: MAINTENANCE AND INSPECTION**SECTION 6.20**

- A. The City shall maintain official personnel files for all municipal employees. Such files shall include, but may not be limited to: individual employment data; payroll information; work item schedules; records of additions or deductions paid; application forms; records pertaining to hiring, promotion, demotion, transfer, layoff, termination, etc. Personnel file access is governed by R.C. 149.43 and R.C. Chapter 1347.
- B. Nothing herein shall prevent the dissemination of impersonal statistical information, except where prohibited by law.
- C. An employee shall have a right of reasonable inspection of his or her official personnel file.
- D. Employees must advise the City of any change in: name, address, marital status, telephone number, number of exemptions for tax purposes, citizenship, selective service classification, or association with any government military service organization.
- E. Nothing in this policy shall prohibit the City from maintaining two (2) sets of files on each employee, one for strictly City use and one for non-confidential information accessible to the public. The public-accessible file may contain documents with confidential information in them, as long as the documents are redacted to keep such information confidential. The Ohio Public Records Law, R.C. 149.43, requires that the public must have access to any records that are not either: specifically listed as confidential under that law; or records whose release is prohibited by some other state or federal law.
- F. Nothing prohibits the City from charging a reasonable fee for the preparation of copying of data for public use.

POLITICAL ACTIVITY**SECTION 6.21**

City employees shall not take an active part in political campaigns which involve candidates for any City of Mt. Healthy offices, other than to cast a vote in an election or to express privately their views and opinions as a citizen. Political activities in regard to State and National offices are not prohibited, but such activities must be confined to non-working hours and shall not take place on City property.

Employees of the City are to serve all City residents equally. The political opinions or affiliations of any resident shall in no way affect the amount or quality of service received from the City.

Certain specific political activities are legally permitted or prohibited to all classified City employees, including classified employees on authorized leave of absence from their positions. Unclassified employees are substantially less restricted, except those unclassified employees subject to Federal Merit Standards. Employees who are subject to Federal Merit Standards are generally those paid with federal funds distributed directly or by the State of Ohio.

All employees are encouraged to exercise their constitutional right to vote. References in this policy to politics and political activity refer to partisan activities, campaigns, and elections involving primaries, partisan ballots, or partisan candidates. The following are examples, but the lists are not necessarily all-inclusive:

A. **Activities Prohibited to All Employees (including Unclassified Employees Not Subject to Federal Merit Standards):**

1. Soliciting a contribution from any person while the soliciting employee is performing his or her official duties.
2. Soliciting a contribution while the soliciting employee is in those areas of a public building where official business is transacted or conducted.
3. Soliciting a contribution from a public employee while that employee is performing his or her official duties.
4. Soliciting a contribution from a public employee while that employee is in those areas of a public building where public business is transacted.
5. Coercing, intimidating, or causing harm to another person or threatening to do so, because that person makes or does not make a contribution to a candidate, campaign committee, political party, legislative campaign fund, or political action committee.
6. Knowingly soliciting a contribution at the direction of or with the authorization of a City elected officer or his or her campaign committee from:
 - a. A City employee whose Appointing Authority is the City elected officer;

- b. A City employee whose Appointing Authority is authorized or required by law to be appointed by the City elected officer;
 - c. A City employee who functions in or is employed in or by the same public agency, department, division, or office as the City elected officer.
7. Knowingly soliciting a contribution at the direction of or with authorization of a candidate for City elected office or his or her campaign committee from:
- a. A City employee whose Appointing Authority will be the candidate, if elected;
 - b. A City employee whose Appointing Authority will be appointed by the candidate, if elected;
 - c. A City employee who will function in or be employed in or by the same public agency, department, division, or office as the candidate, if elected.

B. **Activities Permitted to Classified Employees and Unclassified Employees Subject to Federal Merit Standards:**

- 1. Registering and voting.
- 2. Expressing opinions, either orally or in writing, but not political campaigning.
- 3. Voluntarily financially contributing to political candidates or organizations.
- 4. Circulating nonpartisan petitions or petitions stating views on legislation.
- 5. Attending political rallies. Employees may attend political rallies that are open to the general public.
- 6. Signing nominating petitions in support of individuals.
- 7. Displaying political pictures in the employee's home(s) or on the employee's property.
- 8. Wearing political badges or buttons or displaying political stickers on their private vehicles.
- 9. Participating as a precinct election official. (However, although participation is allowed under R.C. 124.57, 3501.22, and 3501.26, as of the effective date of this policy, the issue remained unresolved whether an employee paid directly or indirectly by federal funds could participate as a precinct election official. Therefore, the City should discourage such participation).

C. **Activities Prohibited to Classified Employees and Unclassified Employees Subject to Federal Merit Standards:**

1. Participating as a candidate for public office in a partisan election or in a nonpartisan general election if the nomination to candidacy was obtained in a partisan primary or through the circulation of nominating petitions identified with a political party.
2. Filing petitions meeting statutory requirements for partisan candidacy to elective office.
3. Circulating official nominating petitions for any candidate participating in a partisan election.
4. Holding an elected or appointed office in any partisan political organizations.
5. Accepting party-sponsored appointment to any office normally filled by partisan election.
6. Campaigning by writing for publications, by distributing political material or by making speeches on behalf of a candidate for partisan elective office.
7. Soliciting, either directly or indirectly, any assessment, contribution, or subscription either monetary or in-kind for any political party or political candidate.
8. Soliciting the sale of, or selling, political party tickets, materials, or other political matter.
9. Engaging in partisan activities at the election, such as soliciting votes, or transporting or helping get out the voters on election day.
10. Engaging in political caucuses of a partisan nature.
11. Participating in a political action committee which supports partisan activity.

SAFETY**SECTION 6.22**

- A. **City Responsibility:** Work safety and health is one of the City's primary concerns. The safe and healthful performance of all work assignments is the responsibility of both supervisory and non-supervisory personnel. It is the responsibility of each employee to ensure that all safety equipment is used and all safety procedures/practices are observed.
- B. **Supervisor Responsibility:** All employees, particularly supervisors, are charged with the responsibility of reporting the existence of any hazardous condition or practice in the workplace. Supervisors found to be negligent in requiring and/or controlling the use of prescribed safety equipment are subject to disciplinary action, including termination.

- C. **Employee Responsibility:** All employees found to be unintentionally or accidentally negligent in equipment operation, resulting either in damage to the equipment or an accident, shall be disciplined according to these policies.

Any employee found to be wantonly or intentionally negligent in equipment operation, having a desire to cause the consequences of his or her actions or believing that the consequences are substantially certain to result from his or her actions, resulting in either damage to the equipment or an accident, shall be subject to immediate termination.

All employees who drive City vehicles will maintain the appropriate speed limits and safety laws. Violators are subject to disciplinary action, including termination.

- D. Each employee will be expected to cooperate with established safety procedures, and in the investigation of all on the job accidents and assist in making the work environment safe for himself and coworkers.
- E. **Accident Reporting:** All accidents (e.g., employee injury, third party, property damage, etc.) must be reported to the department head immediately by telephone, or in person. At no time is knowledge of an accident to be delayed, withheld, or mailed. Such accidents shall be reported to the department head no more than twenty-four (24) hours after the accident. Upon receipt of an accident report, the department head shall notify the City Manager immediately. Employees may be subject to drug and alcohol testing pursuant to the statutes and regulations related to the Ohio Bureau of Workers' Compensation.
- F. The City may adopt health and safety policies and procedures that are beyond the scope of this manual.

RECORDS RETENTION**SECTION 6.23**

Certain records must be maintained for a period of time designated by law or regulation. Employees should consult their supervisor and/or the appropriate department/division heads for guidance on the maintenance of business records. Destroying official records/documents without authorization will be grounds for disciplinary action or discharge.

RECORDS FALSIFICATION**SECTION 6.24**

Willingly and knowingly falsifying any public records (e.g., application forms, time sheets, travel vouchers, purchase orders, client record information, etc.) will be grounds for immediate discharge.

PERSONAL PROPERTY**SECTION 6.25**

- A. Employees may bring personal property into their offices/departments to augment furniture and fixtures provided by their offices/department, such as lamps, small shelves, tables, fans, etc., so long as said property does not interfere with City operations. All personal property should be labeled as belonging to the employee, and must comply with

all safety and health regulations. Failure to label personal property may cause the office/department to include the item or items in its inventory roster.

- B. Employees bringing personal property into the office/department must assume the risk of its theft or destruction.

PERSONAL VISITORS**SECTION 6.26**

Visits to an employee during working hours that are of a personal nature are discouraged. However, we realize that uninvited personal visitors may occasionally drop in unexpectedly, or a personal visitor may be necessary due to unusual circumstances. Employees are to use good judgment in spending time with non-business related visitors. Excessive use of work time to visit with personal friends, relatives, etc., may be grounds for disciplinary action.

BUILDING UTILIZATION**SECTION 6.27**

- A. Buildings are used for implementation of municipal programs. They shall not be used for any other purpose without the approval of the City.
- B. There is an inventory control of all equipment in buildings by location. If any equipment, large or small, is moved from one location to another in the building for more than a brief few hours of temporary usage, there must be prior approval of the Department/Division Head or his or her designee.
- C. When leaving your office at the end of the day, please turn out all office lights, fans, heaters, and other electrical appliances.

TOBACCO POLICY**SECTION 6.28**

1. The City is committed to providing a healthful environment for its employees.
2. For the purpose of separating persons who smoke from persons who do not smoke for the comfort and health of persons not smoking, smoking is prohibited in every City-owned building and City-owned vehicle. There may be designated outdoor areas where smoking and tobacco use is permitted.
3. The City Manager will designate the no smoking areas. A no smoking area may include the entire building or enclosed structure. Designations shall be made by the placement of signs that are clearly visible and that state "no smoking." No person shall remove signs from areas designated as no smoking areas.
4. Smoking in any area designated as a no smoking area is expressly prohibited. If someone is seen smoking or using tobacco in a non-smoking area, the individual will be requested to refrain from smoking or using tobacco, and if the individual refuses, he or she will be removed from any designated "no smoking area."

5. For purposes of this policy, "smoking" is defined as the carrying or holding of a lighted cigarette, cigar, pipe, or any other lighted smoking equipment or material, or the inhalation or exhalation of smoke from any lighted smoking equipment or material. "Tobacco use" includes the use of any cigar, cigarette, pipe, weed, plant, or other smoking equipment in any form, or any smokeless tobacco product.

TAPE, VIDEO, OR DIGITAL RECORDINGS**SECTION 6.29**

- A. Employees of the City of Mt. Healthy are prohibited from creating a tape, video, digital, or other like recording of an administrator, a supervisor, another department/division representative, a fellow employee, or any official City business without consent, except where provided for by law, ordinance, City of Mt. Healthy policy and/or procedure, or by specific departmental policy and/or procedure. Before any form of recording may begin, the individual desiring to record a conversation or event must request consent to make the recording from the person(s) being recorded. Such consent must be granted in written form and signed by the individual(s) granting consent prior to the recording of the conversation or event and written approval of the department head or designee.
- B. Any violation of these restrictions may result in discipline, up to and including discharge.

COMPUTER / INTERNET / ELECTRONIC MAIL**SECTION 6.30**

The use of computer technology and assignment of an e-mail/Internet account through the City of Mt. Healthy is a benefit to the employee and should be treated as such. Computer, Internet, and electronic mail usage may be monitored by system or other personnel at any time. The use of any electronic technology resources, including wireless devices, of the City of Mt. Healthy implies acceptance of all current operational policies.

A. General Standards of Conduct of Internet Use.

1. Any use of City computers or on-line computer or wireless services to facilitate illegal activity is prohibited.
2. Use of the City's electronic services to access obscene or pornographic materials is prohibited.
3. Use of the City's electronic services for personal, political, commercial, or for-profit purposes is prohibited except that employees may access the internet for personal use on their own time with their supervisor's permission. This includes buying, selling, and bartering, including, but not limited to, the use of credit cards.
4. Disruption of electronic services, supporting equipment, or information available on it is prohibited, including, but not limited to, tampering with hardware or software, vandalizing or destroying data, introducing or using computer viruses, attempting to gain access to restricted information or networks, violating copyright laws, or installing non-City owned software of any kind.

5. The use of electronic services to harass other users or to transmit materials likely to be offensive or objectionable is prohibited.
6. Users of electronic services are to protect themselves and others by not issuing or releasing confidential information, addresses, passwords, or telephone numbers, remembering that on-line computer services are not private.
7. Employees shall not use a code or password, access a file, or retrieve any stored information unless authorized to do so. Employees should not attempt to gain access to another employee's messages without the latter's permission. All computer pass codes or passwords used on the City's equipment must be provided to supervisors. No pass code or password may be used that is unknown to the City Manager or designee.
8. Any employee who violates this policy or uses electronic services for improper purposes shall be subject to discipline, up to and including discharge.

B. E-mail.

1. Any message sent or received via the City of Mt. Healthy's e-mail system or wireless device may be monitored by the City at any time, with or without prior notification. If the City discovers any misconduct or criminal activity, the information contained in such e-mail messages may be used to document such conduct and may be revealed to the appropriate authorities. All e-mail usage shall comply with the City's policy and all state and federal laws including those barring discrimination because of age, race, sex, religion, disability, etc.
2. E-mail relevant to the course of business at the City of Mt. Healthy should be printed and filed in the same manner as written correspondence.
3. E-mail relevant to a specific project or file should be retained in accordance with the City's records retention policy.
4. Subscriptions to unrelated services or news groups is not allowed as they create unnecessary traffic on the e-mail system.
5. It is permissible to transmit documents via e-mail as attachments. However, transmitting copyrighted material including software, research data, and manuscripts without the consent of the copyright holder is strictly prohibited.
6. Caution should be exercised before opening any attachment to any incoming e-mail. If the e-mail is of unknown origin, or is not business-related, the attachment should not be opened.
7. The use of personal e-mail is not forbidden, but should be used with common sense and restraint as is the telephone for personal business.

8. The downloading of files/programs for personal use from the Internet without advance permission is prohibited. Permission is obtained from the City Manager or designee.

C. **Standards of Conduct for E-mail on the City of Mt. Healthy's Electronic System:**

1. Do not overuse e-mail by sending courtesy copies of messages to people who do not need them. Similarly, it is not generally necessary to reply to an e-mail just to inform the sender that you have received it.
2. Be careful when forwarding e-mail messages. Use common sense: if you would not forward a copy of a paper memo with the same information, do not forward the e-mail.
3. Global transmission of e-mail is prohibited without the advance written permission of the City Manager.
4. Be careful what you write. E-mail is not the same as conversation. It is a written record, can be duplicated at will, and may constitute a "public record."
5. Use normal capitalization and punctuation. Typing a message in all caps is bad "netiquette."
6. When replying to e-mail, it is often useful to include a portion of the original senders message to put your reply into context. It is appropriate to delete unimportant portions of the original message in order to prevent the message from getting too long.
7. If a user discovers defamatory, disparaging, or otherwise damaging statements about the City on the Internet, the user should inform the appropriate department head to follow-up on that discovery.

D. **Use of the World Wide Web:** The Internet is a powerful and useful tool for research and other functions. Employees are encouraged to develop computer and Internet skills to improve their job knowledge and to promote the interests of the City. Employees should treat the Internet as a formal communications tools similar to the telephone, radio, video, and written communications. All employees are responsible for their actions and communications using computers and the Internet.

E. Employees enjoy no expectation of privacy in the use of internet, e-mail, or on-line services provided by the City.

OFF-DUTY CONDUCT**SECTION 6.31**

While generally an employee's conduct away from his or her place of work is normally viewed as none of the City's business, there is a significant exception where it is established that the employee's misconduct off the premises can have a detrimental effect on the City's reputation or

business, or where the off-duty conduct leads to a refusal, reluctance, or inability of other employees to work with the employee involved.

Therefore, the City wishes to notify all employees that the City will evaluate a number of criteria in determining whether to discharge or discipline an employee for off-duty conduct. These include (1) injury to the City's business (including actual or potential business loss and/or injury to the City's reputation), (2) Inability to report for work, (3) unsuitability for continued employment, and (4) objectionability or danger to other employees.

WORKPLACE VIOLENCE**SECTION 6.32****A. POLICY.**

1. The safety and security of employees, clients, contractors, and the general public are of vital importance to the City of Mt. Healthy. Therefore, threats, threatening behavior, bullying, or acts of violence made by an employee or anyone else against another person's life, health, well-being, family, or property will not be tolerated. Employees found guilty of violence will be subject to disciplinary action up to and including termination of employment.
2. The purpose of this policy is to provide guidance to employees of the City of Mt. Healthy should they encounter a situation that they believe could result in an act of violence.
3. The word "violence" in this policy shall mean an act or behavior that:
 - a. is physically assaultive;
 - b. a reasonable person would perceive as obsessive (e.g., intensely focused on a grudge, grievance, or romantic interest in another person and likely to result in harm or threats of harm to persons or property, etc.);
 - c. consists of a communicated or reasonably perceived threat to harm another individual or in any way endanger the safety of another;
 - d. would be interpreted by a reasonable person as carrying a potential for physical harm to the person;
 - e. a reasonable person would perceive as intimidating or menacing;
 - f. involves carrying or displaying weapons, destroying property, or throwing objects in a manner reasonably perceived to be threatening;
 - g. consists of a communicated or reasonably perceived threat to destroy property; and

- (1) A loaded or unloaded firearm; or
- (2) A weapon, device, electronic stun weapon, chemical substance, or other material that in the manner it is used, or could ordinarily be used, or is intended to be used, is readily capable of causing serious bodily injury.

b. Exception: Individuals may possess a firearm on City property if the individual is employed in the capacity of a law enforcement officer and is engaged in law enforcement activities.

B. PROCEDURE.

1. Any person who makes substantial threats, exhibits threatening behavior, or engages in violent acts on the City's property shall be removed from the premises as quickly as safety permits and shall remain off the premises pending the outcome of an investigation. The City will initiate an appropriate response. This response may include, but is not limited to, suspension and/or termination of any business relationship, reassignment of job duties, suspension or termination of employment, and/or criminal prosecution of the person(s) involved.
2. It is a requirement that all employees report, in accordance with this policy, any behavior that compromises the City's ability to maintain a safe work environment. All reports will be investigated immediately and kept confidential, except where there is a legitimate need to know. Even without an actual threat, personnel should also report any behavior they have witnessed which they regard as threatening or violent, when that behavior is job related or might be carried out on a City controlled site, or is associated with City employment.
3. All incidences of suspected or potential violence should be reported to the employee's immediate supervisor or department head. Do not take the position that the incident is too minor to report or that it does not appear to be a "real problem." Do not wait until it is too late to be proactive.
4. Supervisor Responsibilities: Supervisors and department heads are responsible for assessing situations, making decisions on the appropriate response, and responding to reports of or knowledge of violent activities that have occurred in the workplace or that involved an employee of the City.
5. When any actual, potential, or suspected incident of violence is brought to the attention of a supervisor or department head, the department head or designee shall evaluate the severity of the situation immediately and have the individual reporting the incident fill out a written statement. If it is concluded that an actual act of violence has occurred or if there is a likelihood that violence could result, the department head or designee shall:
 - a. Discuss the situation with the employee(s) and attempt to find out what caused the situation.

- b. Determine what action is to be taken to prevent the situation from occurring again. Such actions may include but not be limited to:
 - (1) Assigning a different employee to the area or job.
 - (2) Talking with the disgruntled client or employee(s).
 - (3) Discussing the incident and offer suggestions for appropriate actions.
 - (4) Referring the affected employee(s) to professional help or counseling.
 - (5) Disciplining the employee(s), up to and including termination of employment.
6. All employees who apply for, obtain, or are the subject of a restraining order which lists department locations as being protected areas, must provide to their department head a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent.

CELLULAR PHONES / LAPTOP USAGE**SECTION 6.33**

- A. **Personal Cellular Phones:** While at work, employees are expected to exercise the same discretion in using personal cellular phones as is expected for the use of City phones. Excessive personal calls or text messages during the workday, regardless of the phone used, can interfere with employee productivity and may be distracting to others. Repeated incidents of an employee placing or accepting excessive personal calls or text messages may lead to disciplinary action. Employees are to limit personal calls during work time to no more than one (1) per day as needed. Employees are therefore asked to make any other personal calls on non-work time and to ensure that friends and family members are aware of the City's policy. Flexibility will be provided in emergency situations or for circumstances demanding immediate attention.

Employees are permitted to possess and use camera phones, subject to Section 6.29 Tape, Video, and Digital Recordings. Employees should be aware that certain communications on personal mobile phones regarding City business may still be considered a public record.

The City will not be liable for the loss of personal cellular phones brought into the workplace.

- B. **Personal Cellular Phones for City Business Use:** Certain employees may be asked to use their personal cellular phones for City business use. Those employees shall be reimbursed for such use.

- C. **City Provided Cellular Phones or Laptops:** The City may issue a City-owned cellular phone or laptop to an employee for work-related communications. Such phones or laptops are to be used for City business reasons only. The frequency and duration of such unofficial calls must be kept to a minimum. This also includes text messaging. Except as provided for above, a City cellular telephone shall not be used for any of the following:
1. Any call or text message made in relation to an official's or employee's personal business.
 2. Any call made for the purpose of personal entertainment, including, but not limited to, "900" numbers or other pay per call numbers.
 3. Any general or routine calls or text messages made in relation to an official's or employee's personal life.
 4. Any call or text message of an obscene, threatening, harassing, or otherwise offensive nature that would be illegal, prohibited, or inappropriate as defined by law or which would be in violation of any other City policy.

Officials and/or employees are advised that all communications including, but not limited to, voice mails, text messages, and/or email communications, are not confidential and are subject to review for the purpose of enforcing the policies stated herein. The City shall have complete access to any telephone records, cellular telephone logs, or other information maintained on any City-provided cellular telephone. Employees enjoy no expectation of privacy regarding the use of such equipment.

Employees in possession of City cellular phones or laptops are expected to protect the phones and laptops from loss, damage or theft. Upon separation from employment, or at any time upon request, the employee may be asked to produce the phone for return or inspection. Employees unable to present the phone in good working condition within twenty-four (24) hours may be expected to bear the cost of a replacement. In addition, employees who separate from employment with unauthorized charges will be considered to have left employment on unsatisfactory terms and may be subject to legal action for recovery of the loss.

- E. **Safety Issues for Cellular Phone Use:** Employees whose job responsibilities include regular or occasional driving and who are required to use a cellular phone (whether personal or City-issued) for the purpose of conducting work-related communications, are expected to refrain from using the phone while driving. Safety must come before all other concerns. Regardless of the circumstances, including slow or stopped traffic, employees are strongly encouraged to pull off to the side of the road and safely stop the vehicle before placing or accepting a call or text message. If acceptance of a call is unavoidable and pulling over is not an option, employees are expected to keep the call short, use hands-free options if available, refrain from discussion of complicated or emotional discussions and keep their eyes on the road. Special care should be taken in situations where there is traffic, inclement weather, or the employee is driving in an unfamiliar area.

Employees whose job responsibilities do not specifically include driving as an essential function, but who are required to use a cellular phone for City business use, are also expected to abide by the provisions above. Under no circumstances are employees allowed to place themselves at risk to fulfill City business needs.

Employees who are charged with traffic violations resulting from the use of his or her cellular phone (whether personal or City-issued) while driving will be solely responsible for all liabilities that result from such actions.

Violations of this policy shall be subject to the highest forms of discipline, up to and including termination.

- F. **All Other Electronic Media and Recording Devices:** The use of all personal electronic media and recording devices while on duty shall be minimized. No fire or EMS personnel shall use personal cameras or mobile phones to take photographs at any scene unless asked to do so by command. All photos taken at an emergency scene are property of the City and shall be given to someone in fire administration.

FRAUD REPORTING

SECTION 6.34

Complaints or any matter regarding fraud, including any matter that alleges mismanagement of Agency resources or misuse of public money can be made to the Auditor of the State of Ohio through the Ohio fraud-reporting system.

Complaints made to the Auditor of the State of Ohio through the Ohio fraud-reporting system are anonymous. Complaints may be made in three ways:

- A. File a written complaint at:

Ohio Auditor of State's Office
 Special Investigations Unit
 88 East Broad Street
 P.O. Box 1140
 Columbus, OH 43215

- B. Call the Fraud Hotline:

1-866-FRAUD OH (1-866-372-8364)

- C. Online:

<http://www.auditor.gov>

IDENTITY THEFT

SECTION 6.35

- A. **Intent:** The City adopts this policy to help protect employees, customers, contractors, and citizens of the City from damages related to the loss or misuse of personally

identifying information. This policy is in furtherance of the Fair and Accurate Credit Transactions Act of 2003 and the Federal Trade Commission's rules regarding the prevention of identity theft as well as the City's intentions to promote good management practice. This policy establishes guidelines and procedures for detecting, preventing, and mitigating identity theft.

- B. **Scope:** This policy applies to the creation, modification, and access to identifying information of any customer or citizen who is provided goods or services by the City and is billed later, and any other persons who are required to furnish personal information to the City who are reasonably considered at risk from identity theft.
- C. **Definitions:** When used in this policy, the following terms have the meanings set forth opposite their name, unless the context clearly requires that the term be given a different meaning:
1. **Covered Account:** The term "covered account" means an account that the City offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments of transactions. The term "covered account" may include other accounts or documents offered or maintained by City for which there is a reasonably foreseeable risk to the City, its employees, its customers, or citizens from identity theft.
 2. **Identity Theft:** The term "identity theft" means a fraud committed or attempted using the identifying information of another person without that person's authority.
 3. **Identifying Information:** The term "identifying information" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including any name, social security number, date of birth, official state or government-issued driver's license or identification number, alien registration number, government passport number, or employer or taxpayer identification number. Additional examples of "identifying information" are set forth in 16 CFR § 603.2(b).

Other examples of identifying information may include, but shall not be limited to:

- a. credit card numbers
- b. credit card expiration dates
- c. cardholder's name
- d. cardholder's address
- e. business identification numbers
- f. insurance card number
- g. telephone number
- h. maiden name
- i. checking account numbers and routing number
- j. other account numbers.

4. **Red Flag:** The term “red flag” means a pattern, practice, or specific activity that indicates the possible existence of identity theft.
 5. Certain terms used, but not otherwise defined herein, shall have the meanings given to them in the FTC’s Identity Theft Rules (16 CFR Part 681) or the Fair Credit Reporting Act of 1970 (15 U.S.C. §1681 et seq.), as amended by the Fair and Accurate Credit Transaction Act of 2003.
- D. **Security of Information:** Each employee and contractor performing work for the City will comply with the following:
1. File cabinets, desk drawers, overhead cabinets, and any other storage space containing documents with personally identifying information will be locked or otherwise reasonably secured when not in use.
 2. Storage rooms and record retention areas containing documents with personally identifying information will be locked at the end of each workday or otherwise reasonably secured or when unsupervised.
 3. Desks, workstations, work areas, printers, and fax machines, and common shared work areas will be cleared of all documents containing personally identifying information when not in use.
 4. Whiteboards, dry-erase boards, writing tablets, etc. containing personally identifying information in common shared areas will be erased or removed when not in use.
 5. When documents containing personally identifying information are approved for disposal, they will be placed inside a locked shred bin or immediately shredded using a mechanical cross cut or Department of Defense (DOD)-approved shredding device. Locked shred bins are labeled “confidential paper shredding” and may only be destroyed in accordance with the records retention policy and Ohio’s Public Records Laws.
 6. Personally identifying information may be transmitted using approved City e-mail in accordance with approved policies. All personally identifying information must be encrypted or otherwise reasonably secured when stored in an electronic format.
 7. Any personally identifying information sent externally must be encrypted and password protected or otherwise reasonably secured and only sent to approved recipients. Additionally, a statement such as this should be included in the e-mail:

“This message may contain confidential and/or proprietary information and is intended for the person/entity to whom it was originally addressed. Any use by others is strictly prohibited.”

8. Access to personally identifying information maintained on computers should be protected by the use of a password which is difficult to detect.
 9. Access to personally identifying information will be limited to only those employees who have a business reason to use such information.
- E. **Contact Information:** The City Manager or designee is responsible for administration of this policy and program.
- F. **Risk Assessment:** The City has identified the following types, but not limited to, of documents as potentially at risk from identity theft:
1. medical records
 2. vendor accounts
 3. utility accounts (if applicable)
 4. other confidential information
 5. personnel files.
- G. **Detection (Red Flags):** The City has identified the following red flags to detect any attempts of identity theft and/or potential fraud. The City hereby determines that the following are the relevant red flags given the relative size of the Employer and the limited nature and scope of the services that the Employer provides. These are not intended to be all-inclusive, and other suspicious activity shall be investigated as necessary.
1. Identification documents appear to be altered or forged
 2. Photo and physical description do not match appearance of individual
 3. Other information is inconsistent with information provided by individual
 4. Other information provided by an individual is inconsistent with information on file
 5. Application or document appears altered, forged, or destroyed and reassembled
 6. Information provided is associated with known fraudulent activity (e.g., address or phone number provided is same as that of a fraudulent application)
 7. Information commonly associated with fraudulent activity is provided by applicant (e.g., address that is a mail drop or prison, non-working phone number, or associated with answering service/pager)
 8. SS#, address, or telephone # is the same as that of other customer or taxpayer
 9. Individual fails to provide all information requested

10. Notification is received indicating unauthorized charges or transactions in connection with certain documents
 11. Recent and significant increase in the volume of inquiries
 12. Have received information from reliable outside source of potential fraud regarding the individual
 13. Personal identifying information is inconsistent when compared against data from reliable external or internal information sources
 14. Personal identifying information is not consistent with other information provided by the individual; age on identification does not appear to coincide with social security number range or appearance of individual
 15. Mail sent to individual is returned repeatedly as undeliverable
 16. Personal information provided is inconsistent with information on file for the customer
 17. Applicant cannot provide information requested beyond what could commonly be found in a purse or wallet
 18. Identity theft is reported or discovered
- H. **Response:** Any employee who suspects fraud or detects a red flag indicating possible identity theft shall implement the following response as applicable. All detections or suspicious red flags shall be reported immediately to the Appointing Authority or designee.
1. Ask applicant or individual for additional documentation
 2. Notify internal manager: Any employee who becomes aware of a suspected or actual fraudulent use of a customer or potential customer's identity must notify the City Manager or designee.
 3. Notify law enforcement: The employee should notify the Police Department or other law enforcement of any attempted or actual identity theft
 4. Do not open or modify the account or document
 5. Monitor the account or document for evidence of identity theft
 6. Reopen the account with a new account number (if applicable)
 7. Close the account (if applicable)
 8. Do not attempt to collect against the account

9. Determine that no response is warranted under the particular circumstances
 10. Collect all related documentation regarding the identify theft attempt and write a brief description of the incident or situation
 11. Notify the actual customer or citizen that fraud has been attempted
- I. **Training:** All employees handling customer's, vendor's, citizen's, or other employee's personally identifiable information will receive appropriate training and effective oversight to ensure compliance with policies and procedures designed to detect, prevent, and mitigate the risk of identity theft.
- J. **Identity Theft Prevention Program Review:** A report shall be prepared annually and reviewed by the City which shall include matters related to the program; the effectiveness of the policies and procedures; a summary of any identity theft incidents and the response to the incident; and recommendations for changes to improve the program, if deemed necessary.

DISCIPLINARY PRINCIPLES**SECTION 7.00**

- A. The City of Mt. Healthy believes that a clearly written discipline policy will serve to promote fairness and equality in the work place, and will minimize potential misunderstandings among employees in disciplinary matters. Furthermore, the City believes the certain basic principles of discipline, set forth below, must consistently be applied in order to effectively and fairly correct unsatisfactory job behavior.
1. Employees shall be advised of expected job behavior, the types of conduct that the City has determined to be unacceptable, and the penalties for such unacceptable behavior.
 2. Immediate attention shall be given to policy infractions, unless special circumstances warrant further investigation or delay.
 3. Discipline shall be applied uniformly and consistently, and any deviations from standard procedure should be well justified and documented.
 4. Each offense shall be dealt with as objectively as possible.
 5. Discipline shall usually be progressive, but depending on the severity of the offense, may proceed immediately to termination.
 6. An employee's immediate Supervisor, his or her Department/Division Head, and the City Manager shall be responsible for administering discipline.
- B. Any appointment to a position in the classified service which is specified as emergency, intermittent, seasonal, student, or temporary shall be considered non-permanent and shall be only for the duration specified at the time of the appointment. Non-permanent employment may be terminated at any time at the discretion of City Manager.
- C. The discipline of Verbal Warning, Written Reprimand, and a suspension of three (3) days or less shall not be appealable to the Mt. Healthy Civil Service Commission, and the City Manager's response will be final.

PROGRESSIVE DISCIPLINE**SECTION 7.01**

- A. The City generally follows a system of progressive discipline when correcting job behavior. Typical disciplinary action may include reprimands, suspensions, demotions (reductions), and removals. Working suspensions have the same effect as suspensions from work without pay for purposes of recording disciplinary actions and demonstrating progressive discipline.
- B. The City has adopted this discipline policy as a guideline for the uniform administration of discipline. It is not, however, to be construed as a delegation of, or a limitation upon, the City's right to impose a different level of discipline, when circumstances warrant.

- C. This discipline policy provides standard penalties for specific offenses; however, the examples of specific offenses given in any grouping are not all inclusive and merely serve as a guideline. The Appointing Authority may issue a fine or working suspension under certain circumstances, for example, to discipline an FLSA exempt employee without jeopardizing the employee's exemption, or to impose discipline when the City is short-staffed.
- D. The standard penalties provided in this policy do not preclude the application of a more or less severe penalty for a given infraction when specific circumstances warrant such penalties. In those cases where the penalty deviates from the recommended standard penalty, the reasons for such deviation should be noted in writing by the supervisor.
- E. Verbal and Written Reprimands shall be inserted into the employee's personnel file and shall remain effective for twenty-four (24) months after its issuance. Thereafter, the action shall cease to have force and effect provided that no intervening discipline is issued within the initial twenty-four (24) month period following the disciplinary action.

If intervening discipline occurs, the warning or reprimand shall remain in effect until twenty-four (24) months has elapsed, or until the intervening discipline expires, whichever occurs last.

Records of severe disciplinary action, including any suspension or demotion shall remain in the employee's personnel file in accordance with the City's records retention policy.

- F. The Appointing Authority may place an employee on Administrative Leave with pay, but only in circumstances where the health or safety of an employee or of any person or property entrusted to the employee's care could be adversely affected. The length of the leave shall not exceed the length of the situation for which the leave is guaranteed. For example, in a disciplinary situation, such leave might extend until the City completes the predisciplinary process and takes action or decides not to do so. Compensation for Administrative Leave shall be equal to the employee's base rate of pay. Employees on Administrative Leave are considered to be in active pay status.
- G. All multiple policy infractions shall be dealt with by following the system of progressive discipline set forth below:
 - 1. Multiple offenses which are unrelated are progressively disciplined in the groups in which the offenses are classified; and
 - 2. Multiple offenses which are related are progressively disciplined regardless of the groups in which the offense is classified, and regardless of the order in which the offenses occurred.

GROUNDS FOR DISCIPLINARY ACTION AND PENALTIES

SECTION 7.02

- A. The examples of Group I, II, and III Offenses set forth below are characteristic of those offenses which the State has historically judged in public sector cases to be of such a nature as to warrant those penalties established for the group.
- B. In general, Group I Offenses may be defined as those infractions which are of a relatively minor nature and which cause only a minimal disruption to the organization in terms of a slight yet significant decrease in organization productivity, efficiency, and/or morale. Group I Offenses, if left undisciplined by proper authority, will usually cause only a minor adverse impact against the organization unless such acts are compounded over time.
- C. Group II Offenses may be defined as those infractions which are of a more serious nature than Group I Offenses and which, in turn, cause a more serious and longer lasting disruption to the organization in terms of decreased organizational productivity, efficiency, and/or morale. Group II Offenses, if left undisciplined by proper authority, can cause a serious and longer lasting adverse impact against the organization than Group I Offenses.
- D. Group III Offenses may be defined as those infractions which are of a very serious or possibly criminal nature, and/or which cause a critical disruption to the organization in terms of decreased productivity, efficiency, and/or morale. Group III Offenses, if left undisciplined by proper authority, may cause long lasting and critically serious adverse impact against the organization.
- E. Nothing in this section should be construed or interpreted to infringe upon the supervisor's right to counsel employees informally during the normal course of work. In fact, such informal interaction is encouraged, and should not be considered part of the formal discipline program outlined herein.

F. Group I Offenses:

First Offense	Instruction and Cautioning (Verbal Warning)
Second Offense	Written Reprimand
Third Offense	Up to three (3) day suspension without pay
Fourth Offense	Up to fifteen (15) day suspension without pay
Fifth Offense	Up to termination

Examples include, but are not limited to, the following:

- 1. Failure to "report off" work for any absence.

2. Failure to commence duties at the beginning of the work period, or leaving work prior to the end of the work period.
3. Leaving the job or work area during the regular working hours without authorization.
4. Making preparations to leave work without specific prior authorization before the lunch period, or for any official break time, or before the specified quitting time.
5. Leaving post of continuous operations position prior to being relieved by employee of incoming shift.
6. Neglect or carelessness in signing in or out.
7. Unauthorized absence from work (except job abandonment, which is a constructive resignation and/or grounds for removal).
8. Creating or contributing to less than serious unsanitary or unsafe conditions. More serious violations carry more severe penalties.
9. Failure to observe tobacco rules.
10. Distracting the attention of others, unnecessary shouting/demonstration, or otherwise causing disruption on the job.
11. Malicious mischief, horseplay, wrestling, or other undesirable conduct, including use of profane or abusive language.
12. Use of abusive language toward other employees.
13. Failure to cooperate with other employees as required by job duties.
14. Failure to use reasonable care of City property or equipment.
15. Use or possession of another employee's working equipment without authorization.
16. Neglect or carelessness in observance of official safety rules, or disregard of common safety practices. Wanton or willful neglect carries more severe penalties. See Group III.
17. Failure to observe office and/or department/division rules.
18. Obligating the City for any minor expense, service, or performance without authorization.
19. Failure to report minor accidents, injury, or equipment damage.

20. Disregarding job duties by neglect of work or reading for pleasure during working hours.
21. Unsatisfactory work or failure to maintain required standard of performance.
22. Unauthorized use of telephone, computer, cellular phone, or laptop for other than City business purposes.
23. Excessive garnishments.

G. Group II Offenses:

First Offense	Instruction and up to and including two (2) or three (3) day suspension without pay
Second Offense	Reduction in pay or position and/or up to thirty (30) day suspension without pay
Third Offense	Up to termination

Examples include, but are not limited, to the following:

1. Sleeping during working hours.
2. Reporting for work or working while unfit for duty (May be a Group III Offense for CDL holders).
3. Conduct violating morality or common decency.
4. Unauthorized use of City property or equipment.
5. Willful failure to sign in or out when required.
6. Failure to report for overtime work without good reason after being scheduled to work according to overtime policy.
7. Willful failure to make required reports.
8. Solicitation on City premises without authorization.
9. The making or publishing of false, vicious, or malicious statements concerning employees, supervisors, the City, or its operations.
10. Refusing to give testimony when accidents are being investigated.
11. Giving false testimony during a complaint investigation or hearing.
12. Unauthorized posting or removal of notices or signs from official bulletin boards.

8. Manufacturing, distributing, possessing, or using alcohol, or controlled substances (without a properly reported prescription) in the workplace.
9. Fighting or attempting to injure other employees, supervisors, or persons.
10. Carrying or possessing of firearms, explosives, or other weapons on City property at any time without prior authorization.
11. Knowingly concealing a serious, communicable disease (such as TB), which may endanger the lives of others, or the life of the employee, if the employee remains in the workplace.
12. Misusing or removing City records or information without prior authorization.
13. Instigating, leading, or participating in any walkout, strike, sit down, stand-in, refusal to return to work at the scheduled time for the scheduled shift, or other concerted curtailment, restriction, or interference with work in or about the City's work stations.
14. Dishonesty or any dishonest action. Some examples of what is meant by "dishonesty" or "dishonest action" are: theft; pilfering; opening desks assigned to other employees without authorization; making false statements to secure an excused absence or to justify an absence or tardiness; making or causing to be made, inaccurate or false reports concerning any absence from work. The foregoing are examples only and do not limit the terms "dishonesty" or "dishonest action."
15. Insubordination, e.g., refusing to perform assigned work or to comply with written or verbal instruction of the supervisors, etc.
16. Committing safety violations.
17. Threatening, intimidating, or coercing employees or supervisors.
18. Engaging in unauthorized political activity.
19. Engaging in discriminatory or sexual harassment.
20. Misusing LEADS or similar system.
21. Obligating the City for any unauthorized expense, service, or performance.
22. Being convicted of a "felony" within the meaning of R.C. 124.34, even if prior discipline has been issued for the underlying conduct.

PRE-DISCIPLINARY CONFERENCE**SECTION 7.03**

- A. Whenever the City Manager, department/division head, or a supervisor determines that an employee may be disciplined for cause to include suspension, reduction, or termination, a pre-disciplinary conference will be scheduled to give the employee an opportunity to offer an explanation of the alleged conduct.
- B. Pre-disciplinary conferences will be conducted by the City Manager or designee.
- C. Not less than twenty-four (24) hours prior to the scheduled starting time of the conference, the Employer will provide a "Notice of Pre-disciplinary Conference" to the employee outlining the charges which may be the basis for disciplinary action. The employee may choose to:
1. Appear at the conference to present an oral or written statement in his or her defense.
 2. Appear at the conference and have a chosen representative present an oral or written statement in defense of the employee; or
 3. Elect in writing to waive the opportunity to have a pre-disciplinary conference.
- D. At the pre-disciplinary conference the individual conducting the conference will ask the employee to respond to the allegations of misconduct which were outlined to the employee. Failure to respond or respond truthfully may result in further disciplinary action.
- E. At the conference, the employee may present any testimony, witness, or documents which explain whether or not the alleged conduct occurred. The employee may be represented by any person he or she chooses. The employee shall provide a list of witnesses to the individual conducting the conference as far in advance as possible, but not later than one (1) hour prior to the pre-disciplinary conference. It is the employee's responsibility to notify witnesses that their attendance is desired.
- F. The employee or his or her representative will be permitted to question witnesses. A written report will be prepared by the individual conducting the conference concluding as to whether or not the alleged conduct occurred. The City Manager will decide what discipline, if any, is appropriate. A copy of the report will be provided to the employee within five (5) working days following its preparation.

COMPLAINT POLICY**SECTION 7.04**

- A. **Policy Providing for In House Resolution of Complaints:** It is the policy of the City of Mt. Healthy to ensure that employees' questions, grievances, and complaints arising from misunderstandings and the application of policies, procedures, and work rules that will inevitably develop in the day-to-day activities of public service, are to be promptly heard, answered, and action taken to resolve or clarify the particular situation.

All employees, including probationary, shall have the right to file a complaint without prejudice. No employee shall be disciplined, harassed, or treated unfairly in any manner as a result of filing a complaint or testifying in a hearing, unless the employee gives false testimony.

A complaint is defined as a disagreement between an employee and management as to the interpretation or application of official City policies, anything subject to state or federal law, department/division rules and regulations, or other disagreements perceived to be unfair or inequitable relating to discipline, treatment, or other conditions of employment.

- B. **Election of Remedy:** Nothing in this policy is intended to deny employees any rights available at law to have redress to their legal rights, including the right to appeal to the Mt. Healthy Civil Service Commission, the Ohio Civil Rights Commission, the Equal Employment Opportunity Commission, or any court of competent jurisdiction. However, if the employee elects to file a complaint on a matter over which another appeals body has jurisdiction, it is the employee's responsibility to meet the criteria for filing with that appeals body. The filing of an internal complaint may not affect required filing deadlines. The City may also stay the complaint procedure until resolution of the statutory proceeding.
- C. **Notification of Employee:** All employees shall sign a statement that they have seen and have knowledge of the complaint procedure.
- D. **Settlement:** Complaints are to be settled at the earliest possible step of the procedure. The employee must proceed through all steps of the complaint procedure in proper order and within the prescribed time limits, except as otherwise noted.
- E. **Group Complaint:** Where a group of employees desires to file a complaint involving a situation affecting each employee in the same manner, one (1) employee selected by such group will process the complaint.
- F. **Waiver of Time Limits:** Time limits as set forth in the procedure may be extended by mutual agreement of the parties in writing.
- G. **Representation and Witnesses:** A complainant may have a representative (employee or non-employee) of his or her choosing present at any step of the procedure, except Step 1. Employees and employee representatives shall not lose pay or benefits for time spent in complaint hearings. The expense of any legal representative(s) shall be borne by the party utilizing them. Witnesses may be called by either party. Witnesses may be questioned by the person conducting the complaint hearing, but otherwise are not subject to cross-examination. Management maintains the right to schedule witnesses for hearings.
- H. **Forms:** All complaints filed under this procedure shall be in writing, and shall state the nature of the complaint, the date of the incident(s) giving rise to the complaint, the expected resolution, and the facts which affect the conditions of the complaint.

- I. **Definition of Working Days:** For the purpose of counting time under the procedure "working days" as used in this procedure will not include Saturdays, Sundays, or holidays.
- J. **Health and Safety Grievances:** Complaints relating to issues of health and/or safety shall be expedited through the steps of the procedure.

COMPLAINT PROCEDURE**SECTION 7.05**

- A. The City recognizes that within any organization there will be occasional differences among its employees regarding interpretations of rules and other problems stemming from conditions of employment. In order to provide employees with an orderly process by which they may seek resolution of such differences, the City has established the following complaint procedure.

Step 1, Immediate Supervisor: An employee having a complaint shall file it in writing with his or her immediate supervisor as outlined in the procedure for his or her work unit. In order for a complaint to be recognized, it must be filed within five (5) working days from the date of the incident giving rise to the complaint. The immediate supervisor shall investigate the complaint and shall provide a solution or explanation in writing within five (5) working days following the date on which the complaint City Manager is the employee's supervisor, the complaint shall be handled in Step 3 of the Complaint Procedure, and should be filed directly with the City Manager. Similarly, if the City Manager is next higher in the chain of command over the immediate supervisor, the complaint will proceed directly from Step 1 to Step 3.

Step 2, Department/Division Head: If the aggrieved is not satisfied with the response from Step 1, the aggrieved may pursue the matter by presenting the original copy of the complaint and the solution or explanation from Step 1 to the Department/Division Head along with a copy of the Step 1 response, within five (5) working days of receipt of the Step 1 answer. The Department/Division Head shall schedule a conference with the employee, superior, and Department/Division Head within five (5) working days of receipt of the complaint. The employee may be accompanied by a representative of his or her choosing, but if an employee representative is chosen, the employee must notify the employee's Department/Division Head in advance of the conference so that the employee representative may be relieved of duty to attend the hearing. The Department/Division Head, after review and investigation of all matters of fact relative to the complaint, shall issue his or her decision in writing, within five (5) working days following the hearing.

Step 3, City Manager: Where the aggrieved is not satisfied with the Step 2 response, the aggrieved may submit the original complaint along with all responses to the City Manager within five (5) working days of the receipt of the Step 2 answer. The City Manager will review the complaint and the responses within five (5) working days following the day he or she received the complaint. If the City Manager determines that responses were adequate and proper, he or she will so inform the aggrieved by letter. The City Manager's decision shall be final and binding on the parties, unless the issue

involves an employee suspension, demotion, or dismissal, where additional appeal lies with the Mt. Healthy Civil Service Commission in appropriate circumstances.

If the City Manager determines the responses to be inadequate or improper, or if sufficient evidence does not appear on its face to warrant a response, the City Manager may investigate further.

- B. The following elements apply to the entire Complaint Procedure:
1. A complainant may have a representative of his or her choosing present at each step of the complaint procedure.
 2. In the event of extenuating circumstances, a time limit may be extended by the mutual agreement of both parties in writing.
 3. Complaints not processed to the next step of the procedure within the specified time limit or any written extension thereof, shall be considered to have been resolved on the basis of the decision at the previous step.
 4. Any complaints not answered by an employer representative within the prescribed time limit or extension thereof shall be considered to have been answered in the negative and may be advanced to the next step.

APPEALS FROM SUSPENSION, DEMOTION, OR TERMINATION	SECTION 7.06
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- A. A classified employee who has been suspended for more than three (3) days, fined in excess of three (3) days pay, reduced, or dismissed may appeal the decision of the City to the Mt. Healthy Personnel Commission within ten (10) days of receipt of the City Manager's decision. Such appeal must be in writing, served on the Commission and City Manager, and include a statement of the reason for the appeal and all records of the complaint procedure and relevant documentation.
- B. Upon receipt by the Commission and the City Manager of an appeal from disciplinary action, resulting in suspension in excess of three (3) days, fines in excess of three (3) days' pay, reduction, or dismissal, the Mt. Healthy Civil Service Commission shall set a time and place to hear such appeal and shall notify the City Manager, and the employee. Such appeal hearing shall be after all steps of the complaint procedure have been met.
- C. Amendments to those orders causing such complaint or grievance to be filed may be made by the City Manager (or his or her designee) at any time, provided the employee receives copies of the amended order prior to two (2) working days before the time set for the hearing.

In the hearing of such appeals, the order of procedure shall be as follows:

1. The City Manager, or his or her designee, shall produce relevant evidence in support of the charges and specifications.

2. The employee(s) affected shall then produce such relevant evidence as he or she (or they) may wish to refute such charges.
 3. Relevant evidence may be offered in rebuttal. The Mt. Healthy Civil Service Commission may, at its discretion, hear arguments.
- D. The production of relevant evidence in the hearing of appeals and the Mt. Healthy Civil Service Commission's decision thereof shall be governed in general by the rule that all relevant evidence shall be admissible and the burden of proof shall be upon the City. The appellee and appellant may be represented by counsel.
- E. The judgment of the Mt. Healthy Civil Service Commission shall be final.
- F. Further discussion of this topic may be found in Rule 16 of the Civil Service Rules and Regulations.

LAYOFF / REDUCTION IN FORCE

SECTION 8.00

- A. **General Policy:** If it becomes necessary to reduce staffing levels, the City Manager shall lay off employees by using a system which systematically considers length of service and work performance in order to determine the order of layoff. Layoffs shall only occur when one of the following reasons can be demonstrated;
1. Lack of work;
 2. Lack of funds;
 3. Abolishment of job;
 4. Reorganization for efficiency or economy of operation.
- B. The head of the department/division concerned shall prepare for the City Manager's approval, a list of those employees to be laid off.
- C. Every effort will be made to transfer employees to another department rather than lay them off. However, when the employee is not qualified to hold another position, Department/Division Heads will make their recommendations to the City Manager based on the following criteria:
1. Evaluation of work performance;
 2. Seniority.
- D. An employee who is laid off as a result of a reduction in force will be given preference in filling any positions which subsequently open and for which the employee is qualified.
- E. **Pay Following Displacement:** Whenever an employee displaces to a lower classification as a result of layoff, every effort shall be made not to reduce his or her pay; however, pay rates shall be established according to the following provisions:
1. If the lower pay range permits, the employee's rate shall be set at the same or most nearly the same pay level, without receiving an increase.
 2. If the employee's pay rate exceeds the pay range of the lower classification, it will be set at the top level of the lower pay range.
- F. **Appeals:** Employees who believe that they have been laid off in error may appeal the action to the Mt. Healthy Civil Service Commission. Such appeal must be filed within ten (10) days of notice of the layoff, in writing, and include reasons as to why the layoff or displacement was improper.
- G. A more extensive discussion of layoff and recall is found in Rule 13 of the Civil Service Rules and Regulations.

EXIT INTERVIEW**SECTION 8.01**

Upon resignation, or otherwise voluntarily terminated employment, a full-time employee is requested to complete an exit interview questionnaire (Appendix C), and to personally discuss the questionnaire with the City Manager.

The exit interview is an opportunity for the employee to offer constructive criticism and insights to the City Manager regarding the operation of the various offices/departments/divisions.

RESIGNATION**SECTION 8.02**

- A. Employees who plan to voluntarily resign shall notify their Department/Division Head at least ten (10) working days in advance of the effective date of separation. The Department/Division Head may consent to the employee leaving sooner.
- B. Any employee who resigns is encouraged to give his or her reasons for resigning and to discuss with his or her supervisor any working conditions which he or she feels are unsatisfactory.
- C. A formal letter of resignation shall be required. The Employer hereby accepts resignations upon receipt, and will rely on having received them. Resignations may not, therefore, be revoked without permission. A copy of the letter of resignation shall be forwarded to the City Manager.
- D. Failure to give proper notification shall result in ineligibility for reinstatement and may become a matter of public record.
- E. When a dismissed employee has a pending appeal before the Mt. Healthy Civil Service Commission, the acceptance by a Department Division Head of a dismissed employee's resignation which is received before final action on the part of the Commission will be considered a withdrawal of all charges before the Commission. Further, the separation of the employee concerned shall be recorded as a resignation not in good standing, and the proceedings shall be dismissed without judgment.

RETIREMENT**SECTION 8.03**

- A. Most employees are eligible to retire with PERS benefits, provided they meet the requirements of the PERS system, which are generally outlined in "Retirement Plan" of this manual. Other employees are included in the Police and Fireman's Disability and Pension Fund. Information on these retirements systems may be obtained from the City Manager.
- B. Employees are requested to notify the City in writing at least sixty (60) days prior to the effective date of their anticipated retirement.

RE-EMPLOYMENT**SECTION 8.04**

- A. An employee who has resigned or retired from City service and is subsequently re-employed will not be credited with prior City service for the purpose of computing vacation, sick leave benefits, or other benefits that may be in effect, unless specifically approved by the City Manager, or unless mandated by law.
- B. Any employee who resigns while disciplinary action is pending shall not be eligible for re-employment.