# Employee Information Guide

## Department of Human Resources

**Revised 03/31/2026**

# Employee Information Guide

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# City of Chattanooga Employee Information Guide

| Policy No. 1.0 | Purpose and Objective | Page 1 of 2 |
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| **Policy Sections:**<br>1.1 Administration<br>1.2 Amendments to Personnel Policies<br>1.3 Compliance<br>1.4 Other Policies Provided For | | Effective: 9/19/2023<br>Supersedes: 1/31/2023 |

PURPOSE

To establish a fair and uniform system of policies, procedures and expectations for all employees of the City. It is also the policy of the City of Chattanooga Government to comply with Federal, State and Local guidelines. Therefore, the City of Chattanooga Personnel Policies and Procedures are frequently reviewed to ensure compliance with applicable laws and regulations. Full understanding and compliance is expected of all employees in order that the most effective services possible may be delivered to the residents of the City.

SCOPE

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

The Employee Information Guide will apply to all City employees and shall be made available to all employees. Any employee who desires to review the Guide may review it online on the employee intranet site, the City's website or in the Human Resources Department. For additional information, clarification or definitions of specific terms used in this Guide, employees should contact the Human Resources Department.

## 1.1 Administration

The Department of Human Resources shall have the responsibility for administering comprehensive human resource programs for all City employees.

The Chief Human Resources Officer promotes, publishes, and interprets all policies set forth in the Employee Information Guide and is responsible for the manual's availability.

## 1.2 Amendments to Personnel Policies

Amendments or revisions to these regulations, and policies may be recommended for adoption by the Chief Human Resources Officer with the approval of the City Council by

resolution. Amendments or revisions of these regulations and policies shall become effective upon approval by the City Council.

### 1.3 Compliance

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

### 1.4 Other Policies Provided For

Departments which have accreditation through nationally recognized and reputable accrediting organizations may need policies that deviate from this Employee Information Guide (EIG) to comply with standards set by the accrediting organization. Similarly, certain grant-funded departments or Offices may have policy requirements as set forth in the grant that could require policies that deviate from this EIG..

When it is necessary for alternate or additional policies to comply with a particular standard set by the accrediting organization(s) or the grantor(s), the department may have a formal written policy that is supplemental and/or contradictory to this Employee Information Guide. Such deviation is allowable only to the extent necessary to meet the minimum compliance with a specifically stated requirement.

When departmental policies conflict with the EIG, the Administrator/Department Head shall notify the Chief Human Resources Officer and the City Attorney of such change(s) in writing and cite the grant provision or accreditation standard requiring the deviation. The City Attorney shall make a determination as to whether the deviation is necessary to meet the provision or standard and advise the Administrator/Department Head and Chief Human Resources Officer of this determination.

Individual departments not subject to accreditation or grant requirements may have policies pursuant to their operations. However, such policies shall in no way supersede or conflict with this Employee Information Guide (EIG). Whenever it is necessary to institute or update a departmental policy, the Administrator/Department Head shall notify the Chief Human Resources Officer of such change so the policy may be reviewed for compliance with this EIG.

Administrators/Department Heads may submit select department policies to the Chief Human Resources Officer to be considered for inclusion in the EIG.

# City of Chattanooga Employee Information Guide

| Policy No. 2.0 | General Policies | Page 1 of 23 |
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| **Policy Sections:**<br>2.1 Ethics<br>2.1A Ethics Pledge<br>2.1B Accepting Gifts and Gratuities<br>2.2 Whistleblower Protection<br>2.2A Confidential Reports<br>2.2B Employee Protection<br>2.3 Communicating With Elected Officials<br>2.4 Public Communications<br>2.5 Political Activity<br>2.6 Solicitation<br>2.7 Employee Recognition Awards<br>2.8 Bulletin Boards<br>2.9 Recognition of Employee Representation Groups<br>2.10 Dress Code<br>2.10A Uniforms<br>2.10B Administrative Employees<br>2.11 Lockers and Storage<br>2.12 Tobacco Use<br>2.13 Technology Use and Expectations<br>2.13A Cell Phones<br>2.13B Telecommuting Policy<br>2.13C Social Media Policy<br>2.13D Multi-Factor Authentication<br>2.14 Administrative Closings<br>2.15 Flex Time<br>2.16 Nepotism/Personal Relationships | | Effective: 5/13/2025<br>Supersedes: 9/19/2023 |

## 2.1 Ethics

The Code of Ethics applies to all City employees including elected and appointed officials. It is essential that the highest ethical standards be maintained by the City to ensure the proper performance of government business and to instill confidence in the residents regarding the operation of government. It is also important to provide clear guidance to employees at every level of government about the standards to which they should adhere regarding the acceptance of gifts and conflicts of interest.

Each employee shall avoid any action which might result in or create the appearance of:

1. Using a public office for private gain;
2. Preferential treatment to any person in contradiction with the best interests of the City;
3. Impeding government efficiency or economy;
4. Failing to maintain appropriate independence or impartiality; and
5. Affecting adversely the confidence of the public in the integrity of the City of Chattanooga.

It is the duty of every City employee to report, directly and without delay, to their supervisor, Chief Ethics Officer (City Attorney), or City Auditor any and all information concerning conduct which they know or should reasonably know to involve corrupt or other criminal activity by: An official or employee, which concerns their office or employment or persons dealing with the City, which concerns their dealings with the City.

The knowing failure of any official or employee to report as required above shall subject the official or employee to disciplinary action. A report made to the ethics hotline shall be considered a report to the City Auditor.

2.1A **Ethics Pledge**

The following persons shall comply with the requirements of this Section:

1. Any person who serves as an employee in the Office of the Mayor or any Administrator or Director reporting to the Mayor; and

2. Any person who is appointed by the Mayor to a statutory board, commission, authority, or agency on or after February 4, 2014.

As a condition of employment or appointment, any person meeting the requirements above shall sign, and upon signing shall be contractually committed to the following pledge:

> "As a condition, and in consideration, of my employment or appointment by the City of Chattanooga in a position of the public trust, I hereby acknowledge and agree to abide by the City of Chattanooga's Code of Ethics which I understand is binding on me. I understand that the terms of this pledge are in addition to any statutory or other legal restrictions applicable to me by my government service."

Any person required to sign a pledge under this Section shall file such pledge with the Chief Ethics Officer within fourteen (14) days of commencing employment or appointment.

Any department of the City may establish such additional ethics guidelines and standards consistent with this policy as may be lawfully applied and may in the opinion of the Department Head be appropriate for the proper operation of the department. Further, the Chief Human Resources Officer and the Chief Ethics Officer must approve additional ethics guidelines and standards. Such additional standards should also be filed with any other person required by law as soon as practicable after adoption.

2.1B **Accepting Gifts and Gratuities**

No City employee, without the consent of the City Council, shall receive any gifts or gratuities in addition to their salary for any service they may render as an employee except as may be provided elsewhere in the Employee Information Guide. This policy applies to gifts received when it could be inferred that the gift was intended to influence them in the performance of their official duties or was intended as a reward for an official act on his part. A gift is defined as any benefit, favor, service, privilege or thing

of value that could be interpreted as influencing an employee's impartiality. A gift includes, but is not limited to, meals, trips, money, loans, rewards, merchandise, foodstuffs, tickets to sporting or cultural events, entertainment, and personal services or work provided by City suppliers or contractors. This policy is not intended to prohibit the acceptance of items of nominal value that are distributed generally to all employees. A determination as to whether this policy has been violated is in the City's sole discretion.

## 2.2 Whistleblower Protection

The purpose of this policy is to establish protection by confidentiality for City employees who report illegal, improper, wasteful or fraudulent activity in good faith.

## 2.2A Confidential Reports

All City officials, appointees, and employees are required to report any instances of suspected waste, abuse, fraud or other illegal acts upon becoming aware of such suspect activity or issues within City government. The City maintains a telephone hotline number providing any employee, vendor, or member of the public the ability to anonymously and confidentially report any suspected fraud, waste, abuse, illegal or unethical behavior. The hotline is operated by a third party with no caller ID function and no web tracking features. This hotline number is 1-877-338-4452. The Audit Committee has oversight of the hotline's administration. In addition to a telephone hotline, online reporting is available via the portal link on City's website to **EthicsPoint**. The City Auditor may also be contacted via email **ssewell@chattanooga.gov**. The City's Chief Information Officer shall ensure a prominent link to the City's hotline information is posted on the City's main web page.

The audit working papers of the internal audit staff including those regarding illegal, improper, wasteful or fraudulent activity or any investigation of illegal, improper, wasteful or fraudulent activity are confidential pursuant to T.C.A. §4-3-304(7) and T.C.A. §10-7- 504(a)22, and, therefore, not open to public inspection. This law is a tool the City's internal audit function can utilize to maintain confidentiality. However, employees must recognize that there are no guarantees that confidentiality will be absolute. An example of when such confidentiality may be breached would be by order of the court. For employees wishing to minimize such risks further, the hotline does allow for anonymity. However, even though the hotline provides for anonymity, once an investigation begins, it is possible that co-workers or others who are familiar with the situation may be able to guess the reporter's identity.

While an active investigation is being conducted, the Audit Committee shall keep all information confidential. When an investigation results in a criminal indictment or arrest, it shall be considered active until disposed of by the judicial system. This shall not be construed to limit those conducting an actual investigation from revealing or discussing information as necessary to facilitate said investigation.

Nothing in this policy shall be construed to limit, discourage, or prevent employees from reporting inappropriate or unethical activities directly to their supervisor, Administrator,

the Mayor, the Human Resources Department or the Office of Internal Audit. Upon being notified of or becoming aware of suspected waste, abuse, fraud, or other illegal acts by a subordinate, the supervisor must report the issue to the Office of Internal Audit directly or via the City's hotline.

2.2B **Employee Protection**

Employees of the City of Chattanooga shall be protected from being disciplined, discharged, or subjected to threats thereof, or otherwise discriminated against in retaliation for bringing forth, in good faith, charges of fraud, unlawful conduct, unethical conduct, or conduct in violation of any City policy, directive, ordinance, or Charter provision by any official, employee, appointee, contractor, or vendor of the City. Good faith is established if an employee had a reasonable belief that an official, employee, appointee, contractor, or vendor of the City engaged in fraud, unlawful conduct, unethical conduct, or conduct in violation of a City policy, directive, ordinance, or Charter provision. An employee will not have protection under this Section if they were the subject of an ongoing or existing disciplinary action or investigation prior to filing a report of fraud, unlawful conduct, unethical conduct or conduct in violation of any City policy, directive, ordinance, or Charter provision.

An employee who knowingly or with reckless indifference to the truth, makes a false report shall be subject to disciplinary and legal action.

Employees who believe they have suffered retaliation must file a detailed written report within thirty (30) days from the date of the alleged retaliatory action or when the employee first had knowledge of the alleged retaliatory action. The report must be filed with the City Auditor, the Chief Human Resources Officer, and the Chair of the City Council. The written report must include all the relevant facts concerning the alleged retaliatory action including:

1. The name and work address of the complainant;
2. The name and title of each City employee against whom the complaint of retaliation is made;
3. The specific type and date of retaliation;
4. A statement as to the facts that form the basis of the complaint of retaliation; and
5. A statement of the complainant's explanation of how their reported allegation of fraud or misconduct and/or participation in an investigation, proceeding, or hearing is related to the retaliation.

All complaints alleging retaliation shall be promptly investigated by the Human Resources Department. However, the Office of Internal Audit shall not be prevented from conducting an investigation. In the event that the City Council determines that an investigation conducted by City staff would present a conflict of interest, an independent investigator may be appointed by the Audit Committee.

Those involved in initiating, recommending, imposing and/or implementing disciplinary action against the employee shall not be in violation of this Section if they can demonstrate they had no knowledge that a report of fraud, unlawful conduct, unethical

conduct, or conduct in violation of any City policy, directive, ordinance, or Charter provision had been filed by the employee prior to initiating disciplinary action against the employee.

## 2.3 Communicating With Elected Officials

A City employee has a right to communicate with Elected Public Officials under the Employee Political Freedom Act ("PEPFA") T.C.A. §8-50-601 to 604. The City will not discipline, threaten to discipline or discriminate against any employee for communication with an elected public official unless the statement to the elected public official is untrue.

## 2.4 Public Communications

Employees, agents, and others affiliated with the City are prohibited from using the City brand, logo, or any other City identifiers without prior authorization from the Mayor or the Mayor's designee. Additionally, employees, agents, and others affiliated with the City are prohibited from providing any information to the public that purports to be the endorsement or position of the City without prior authorization. Authorization must be sought from the Mayor or their authorized designee.

## 2.5 Political Activity

All employees shall be free to vote for and support any political candidate they choose without interference, coercion, pressure or dictation by any superior. All employees as private residents and off duty shall be free to join or affiliate with civic organizations including those of a partisan or political nature; attend political meetings; advocate and support the principles or policies of civic or political organizations in accordance with the constitution and laws of the state and in accordance with the Constitution and laws of the United States; take an active part in any political campaign, except those in conflict with the restrictions listed below; act as custodian of funds for political or partisan purposes; and distribute books, pamphlets or handbills favoring or opposing any candidate for nomination or election to public office; except as any or all of the above are modified by laws of the state or laws or regulations of the United States.

No officer or employee of the City shall:

1. Be compelled or coerced to make any contributions, assessments or other payments to any political organization or member or committee thereof
2. Be allowed to solicit any contribution, or to sell any ticket, or to procure money by any device from the public or any member thereof, or to solicit any other political favor, while on duty.
3. Use or threaten to use their influence, because of their position as a City employee, favoring or opposing any candidate or issue.
4. Use any City funds, supplies or equipment for political purposes.
5. Participate in any political activity while wearing any uniform or part of any uniform associating them with their City employment.

6. Work on any political posters, mailing lists or other materials, whether written or otherwise, which are used to influence or attempt to influence voters, while on duty or while in uniform.

Employees are eligible to run for an elective office, including elective offices for the City of Chattanooga, so long as the employee adheres to the following provisions:

1. Federal law prohibits a City employee from running for an elective office if the employee's position or duties are connected with an activity financed in whole or in part by federal loans or grants, unless the election is non-partisan.
2. Before officially filing, employees who seek to run for public office, with the exception of elected officials of the City of Chattanooga, shall give written notice to the employees Department Head stating the intention to seek elective office and the title of the elective office the employee will seek.
3. The employee's Department Head holds the right to place the employee on a leave of absence if it is determined that the employee's candidacy does one or more of the following:
    a. interferes with the employee's assigned job duties and responsibilities;
    b. represents a conflict of interest; or
    c. results in campaigning while on duty.
4. If there is a question as to whether a conflict of interest exists, such matter shall be forwarded to the Chief Ethics Officer for a recommendation to the employee's Department Head. In those instances in which a conflict is found to exist, the employee may appeal the decision. If a conflict is found to exist, the employee shall be placed on a leave of absence. If the employee wishes to continue receiving compensation when placed on a leave of absence, the employee shall first use compensatory leave, then personal leave. When all accrued leave is finally exhausted, the employee may be placed on a leave of absence without pay.
5. Should the employee be successful in acquiring the elective office sought, other than a City of Chattanooga elective office, the employee shall be allowed to continue City employment as long as the employee's elected responsibilities do not conflict with the employee's assigned job duties and responsibilities. The employee's Department Head shall determine whether such a conflict exists. If the Department Head determines that a conflict exists, the employee shall decide within fifteen (15) days from the date of such determination whether to retain employment with the City or serve in their elected position. In those instances in which the conflict results in a dismissal of the employee, the employee may appeal the decision.
6. Should problems arise in the matter of City employees seeking elective office that are not defined in this section, the matter shall be presented to the employee's Department Head for resolution.
7. Nothing contained in this section shall be construed to be inconsistent with any applicable state or federal statute or regulation that may provide otherwise, and this section shall be supplemental to any such applicable state or federal regulation or statute.

## 2.6 Solicitation

Unauthorized solicitation of employees on the premises is strictly prohibited. This prohibition applies both to City employees and non-employees of the City. Solicitation of gifts (for such occasions as resignations, retirements, wedding, and births) may be authorized by the Department Head or Human Resources Department. Contributions may be solicited on City property only with the permission of the Department Head or Human Resources Department. Miscellaneous solicitation of contributions within a single department may be made with the permission of the Department Head.

It should be emphasized that no pressure is to be placed on any employee to make any contributions.

## 2.7 Employee Recognition Awards

Upon recommendations of any City leader and at the discretion and approval of the Department Head or designee, employee awards, including but not limited to safety awards, service awards, productivity awards and retirement awards, may be presented to an employee in recognition of significant contributions made by that employee to the City service.

## 2.8 Bulletin Boards

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

## 2.9 Recognition of Employee Representation Groups

While employees have the right to join labor organizations, union activity shall not interfere with the proper and sound operations of the City. Department Head or designee approval shall be required for union activities during working hours. Meetings between City employees and union representatives shall be before or after regular scheduled working hours and during breaks and lunch periods unless otherwise approved by the Mayor or designee. City equipment and materials may be used to conduct union business with prior approval from the Department Head or designee. No City employee shall be a party to participate in or instigate a strike against the City.

## 2.10 Dress Code

Personal appearance and manner of dress is an important part of your job responsibilities. Employees are expected to dress and groom in a manner in which is appropriate for the type of work performed. Since all employees deal with co-workers and the public on a daily basis, personal hygiene is a requirement. Employees should ensure their personal hygiene will not be offensive to others around them. This includes but is not limited to scented body products, perfume/cologne, oral hygiene and body odor. Specific dress codes vary based on the position held and whether the job requires the use of a uniform.

## 2.10A Uniforms

In departments where uniforms are required to be worn, all employees are expected to wear the uniform according to departmental policy. All uniforms are expected to be kept neat and in good condition. Depending on the department an employee is assigned to, the City may either furnish a uniform or pay the employee a uniform allowance.

## 2.10B Administrative Employees

Employees who do not regularly meet with the public should follow basic requirements of safety and comfort, but should still be as neat and business-like as working conditions permit. Administrative employees who deal with the public are expected to dress in a manner that is professional and that projects a positive image for the City. Employees are required to adhere to the following guidelines:

1. Clothing should be worn and fit in such a manner that it does not expose the abdomen, chest or buttocks areas.
2. Clothing should be free of sexually related references, foul language, or messages that suggest or promote the use of illegal drugs or alcohol.
3. In keeping with a professional image, visible tattoos shall not be inappropriate as determined by the Department Head or designee.
4. Employees as a general rule may not wear, beachwear, sports jerseys, shorts, work-out attire or distracting, inappropriate or revealing clothes on any day of the work week.
5. The Department Head or designee may choose to authorize a particular day or day of the week during which casual clothing may be worn. On designated casual days, employees may wear sports jerseys or shirts and blue jeans that are not overly worn, torn or tattered.

An employee who does not meet the standards of this policy will be subject to corrective actions, which may include leaving the work location to correct the dress code violation. Any work time missed because of failure to comply with this policy will not be compensated, and repeated violations of this policy will be cause for disciplinary action.

## 2.11 Lockers and Storage

Locker rooms and lockers may be provided as needed so employees may change their clothing before and after work. Employees are expected to furnish their own lock and/or key; however, employees may assume no expectation of privacy as the lockers are the property of the City. The City will assume no liability for loss or damage to the contents of lockers or additional storage areas including personal vehicles. Employees may be required to open their lockers or other storage areas for periodic housekeeping, inspections, when it is appropriate and/or necessary, as there is no expectation of privacy. Employees who use locker rooms are expected to assist in keeping them clean and orderly. Any suspicious activity around lockers, as well as break-ins and thefts, should be reported to a supervisor.

All unclaimed personal property of current and former City employees shall be delivered to the Purchasing Agent to be forfeited and disposed of as surplus property after sixty

(60) days. Prior to disposal of the unclaimed personal property, the purchasing agent shall make reasonable effort to notify the owner, including mailing notice to the owner of such personal property by certified mail to such owner's last known address if such has not been done by the department that came into possession of such unclaimed/abandoned property before delivery to the purchasing agent.

## 2.12 Tobacco Policy

The City of Chattanooga is committed to promoting a healthy environment for its staff and visitors without the hazards associated with tobacco products. The use of tobacco and non- tobacco products designed and used as a substitute for a tobacco product; including but not limited to cigarettes, cigars, pipes, electronic cigarettes (e-cigarettes), vaporizing devices, smokeless tobacco, snuff and chewing tobacco is prohibited in any enclosed areas of City buildings. This includes, but is not limited to, common areas, hallways, meeting rooms, offices, restrooms and City vehicles and equipment, as well as any area enclosed by garage type doors on one or more sides when all such doors are completely open. Tobacco users are responsible for ensuring that all tobacco activity, including the lighting and discarding of cigarettes, takes place at least fifty (50) feet from the doors, windows and ventilation systems of City of Chattanooga buildings to avoid infiltration of smoke into the buildings and only during approved break or lunch periods. All materials used for tobacco, including cigarette butts and matches, should be extinguished and disposed of in appropriate containers. Violators of this policy are subject to disciplinary action.

The City's onsite wellness center offers a Tobacco Cessation Program for employees covered by the City's health plan. Additionally, the Tennessee Tobacco Quitline is a toll-free telephone service that provides personalized support for Tennesseans who want to quit the use of Tobacco. Employees may call the Tennessee Tobacco Quitline at 1-800-QUIT-NOW (1-800-784-8669) or online coaching is available at **www.TNQuitline.com**.

## 2.13 Technology Use and Expectations

Computers, the Internet, e-mail and other technology should be used to maximize the City's efforts in serving its residents. It is every employee's duty to use the City's computer resources and communication devices responsibly, professionally, ethically and lawfully. All employee correspondence in the form of electronic mail, including computers, computer files, software, Internet access, voice mail, texts and other communications, are public records under the Tennessee Public Records Act and may be subject to public inspection under the law. Use of City owned technology is a privilege that may be restricted or revoked at any time. Users expressly waive any right of privacy in anything they create, store, send or receive using technology and consent to allowing the City to access and review all materials users create, store, send or receive using technology. Material that is, or could reasonably be regarded as, derogatory or discriminatory on the basis of age, sex, race, color, religion, disability, national origin, protected veteran or military status, sexual orientation, gender identity, ethnic origin, political affiliations, genetic information, marital status or any other protected basis in

accordance with applicable federal, state and local laws, or is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory or otherwise unlawful, may not be sent, displayed or stored by any method of City owned or approved technology.

2.13A **Cell Phones**

Employees should keep use of personal cell phones or other personal handheld communication devices to a minimum so that use of these devices does not interfere with the employee's work or the City's operations. Cell phones shall be turned off or set to silent or vibrate mode during meetings, conferences and in other locations where incoming calls may disrupt normal workflow. If employee use of a personal cell phone causes disruptions or loss in productivity, the employee may be subject to disciplinary action.

Under the Tennessee Public Records Act, any record made or received in connection with the transaction of City business is a public record, unless such record is confidential under federal or state law, regardless of whether the record was made or received on or through City proved resources or personal resources. Public records are subject to inspection by any resident of Tennessee. Billing records or any other record of communications (such as texts and emails) made or received on a City provided or personal wireless device in connection with the transaction of City business are subject to inspection unless confidential under federal or state law.

Employees should never loan their City wireless equipment to anyone other than another employee. Employees remain responsible for all use of their wireless device. Employees should immediately report any theft or loss of a City wireless device to the IT Department.

Upon separation from the City, employees must return City wireless devices to their department.

2.13B **Telecommuting Policy**

DEFINITION

Telecommuting is a work arrangement which allows employees to work from approved off site locations during their regularly scheduled work hours. Although all jobs cannot be performed from other locations, the City of Chattanooga recognizes that, in some cases, telecommuting arrangements can provide a mutually beneficial option for both the City of Chattanooga and its employees. Employees, whether teleworking or working in the office, are held accountable for their performance and conduct. Workplace policies and performance expectations are the same regardless of an employee's work location.

ELIGIBILITY

An employee may be eligible for telecommuting with prior written approval from their manager. Managers shall use the following guidelines in determining eligibility for telecommuting:

- The employee can accomplish the job without being on the premises for an agreed upon portion of the regular work schedule without detrimental impact upon the individual's productivity and performance.
- Clear work objectives can be set, tasks can be clearly defined, and results are measurable.
- The employee has appropriate equipment at the remote site which conforms to the standards, such as a phone where the employee can be reached when needed; City issued laptop with VPN access; high-speed internet access; a suitable and safe workspace; and any other equipment as appropriate to the employee's job.
- The employee shall have demonstrated, to the manager's satisfaction, the ability to work productively with minimal direct supervision. Indicators include consistent performance, reliable attendance, self-motivation, and no relevant disciplinary actions within the prior twelve (12) months.
- The employee is primarily working within the State of Tennessee. Working outside of Tennessee must be pre-approved by the manager and must not exceed de minimis standards to avoid obligation to other state taxes and worker's compensation) Human Resources should be consulted prior to ensure compliance with other state requirements. Under no circumstances is work to be performed outside of the United States without express written consent of the Department Head, the Chief Information Officer, and the Mayor's Office. Consent must be given in advance of any proposed travel.
- The employee has demonstrated successful competency in the essential functions of the position.

TELECOMMUTING GENERAL GUIDELINES

Telecommuting is not an employee right and agreements shall be entered into voluntarily by both the employee and the department. The department or the employee may discontinue the telecommute agreement at any time and for any reason. As such, the City has the right to refuse to make telecommuting available to an employee and to terminate a telecommuting arrangement at any time.

All new telecommuting requests shall be made a minimum of 48 hours in advance of the proposed start date and will consist of a Telecommuting Agreement and Telecommuting Work Plan using the forms available in Human Resources. Emergency approval may be granted without 48 hours' notice for inclement weather and other special accommodations on a case-by-case basis. Requests and subsequent approval notifications shall be made in writing utilizing the City's email system. Employees may not text requests to managers.

Telecommuting Agreements may be approved for a maximum of six (6) months unless otherwise defined by the department. At the end of the agreement, managers will indicate if the employee is eligible for an extension. Special exceptions and accommodations may be made by the employee's immediate manager or the Chief Human Resources Officer.

City employee compensation, benefits, work status, work responsibilities and the amount of time the employee is expected to work per day and/or pay period will not change due

to participation in the telecommuting program unless otherwise agreed upon in writing. Changes to an employee's work schedule must be reviewed and approved in advance by the employee's supervisor.

Business visits, meetings with customers or regularly scheduled meetings shall not be held at a remote site.

Employees telecommuting shall attend all job-related meetings, training sessions and conferences as requested by managers. Employees telecommuting may also be required to attend "short notice" meetings as requested by their manager. When possible and effective, virtual meetings may be offered as an alternative to in-person attendance at the discretion of the manager.

WORK HOURS AND ACCESSIBILITY

Telecommuting schedules and arrangements must comply with all applicable State and Federal employment laws.

Employees must receive advance approval from their manager to work overtime or flex their schedule while telecommuting. Employees must self-report any unscheduled absences or late arrivals/returns to their manager.

It is the employee's responsibility to ensure they are fully accessible during scheduled working hours and are able to complete work assignments on time.

Employees who participate in telecommuting agreements understand their personal information and/or devices may be subject to public information requests. To limit the employee's exposure it is important to remote into your assigned work laptop using the City's VPN, nanotubes.chattanooga.gov.

Employees shall promptly notify the manager when unable to perform work assignments due to equipment failure or other unforeseen circumstances. Managers may reassign employees to another project and/or work location in the event of equipment failure.

FAMILY CARE AND DUTIES

While telecommuting may facilitate employees working around family responsibilities, employees who work remotely shall have day care or other supervision for any member(s) of the household requiring care during normal working hours. Telecommuting is not a substitute for dependent care.

CITY-OWNED EQUIPMENT

City rules regarding personal use of City equipment apply to employees working remotely. Employees must exercise the same reasonable care and security for the equipment as would be expected at any City work site. Employees who telecommute are expected to take reasonable precautions to protect City equipment from theft, damage, or misuse.

The employee may be held liable for damage caused by negligence, intentional damage or damage resulting from a power surge if no surge protector is used.

The City will provide repairs for City owned equipment. Repairs will take place at City facilities or by an authorized vendor.

City equipment and/or software may not be used by other household members or any other non- authorized persons. City-owned software may not be duplicated except as authorized in writing by the City's Information Technology Department.

The employee must inform their manager of all City equipment used while working remotely and the manager should notify IT of any employees working remotely to ensure proper set up.

EMPLOYEE-OWNED EQUIPMENT

For telework purposes, only City issued computer equipment should be used. The employee will be responsible for the maintenance of their internet access. Remote equipment connected to any City system must conform to City policy including the usage of encryption software or hardware to protect stored data.

The City will not be responsible for damages, losses or normal wear and tear that occurs to the employee's property resulting from the telecommuting.

TELECOMMUTING PRODUCT AND RECORDS

Work performed while telecommuting is considered official City business. Products, documents and records used by/or developed while working remotely shall remain the property of the City of Chattanooga, which are subject to City rules regarding confidentiality, disclosure, and records retention requirements.

Employees choosing to telecommute will apply approved safeguards to protect City records and property. All records, correspondence, and equipment must be kept in a secure location to prevent damage, theft, unauthorized disclosure, or unauthorized access.

Release or destruction of any public records may not be done while working remotely, according to statute and regulations.

EMPLOYEE SAFETY

The telecommuting worksite is an alternate worksite and employees remain accountable to follow acceptable safety practices and City policies. The City reserves the right to inspect workplaces and otherwise ensure the safety of the employee.

Standard Injury on Duty (IOD) practices apply and employees are covered by the City of Chattanooga Injury on Duty policy for illness or injury contracted while at work.

Employees leaving the remote work site for any reason during scheduled working hours are expected to request the absence with their direct supervisor or manager. Personal leaves of absence should be reflected on the employee's work calendar.

Employees part of the random testing pools, may be selected for drug/alcohol testing and must be able to report to the WellAdvantage clinic for this test within sixty (60) minutes of being notified. Failure to report in a timely manner, as outlined in this EIG, will be deemed as a positive test.

REIMBURSABLE EXPENSES

All employee purchases or expenditures must receive prior written approval from a manager to qualify for reimbursement.

Other general expenses incurred as a result of the employee choosing to telecommute will be borne by the employee.

Supplies required to complete work assignments shall be obtained from the City during the employee's regularly scheduled days on site. Employees are encouraged to print documents while working on site using City provided equipment if needed for telecommuting work plans.

2.13C **Social Media Policy**

PURPOSE:

The purpose of this document is to detail the policy for the use of social media at the City of Chattanooga (City) as it applies to official and, where indicated, to non-official/personal use of social media by Officers, Employees and Agents.

1. Official Use: Social media engagement as or on behalf of the City and as authorized by the City's Communications Director where the City has an official web presence.
2. Non-Official/Personal Use: Personal day-to-day use of social media sites by employees, officers and agents, not related to official duties.

BACKGROUND

The City is committed to enhancing communication with its various constituents through the use of social media. This commitment primarily stems from public expectations, the capabilities of current technology, and rapid growth of social media by other local, state, and federal government entities.

Social networking in government serves two primary functions: to communicate and deliver information directly to residents about government matters, and when appropriate to facilitate resident involvement, interaction, and feedback on specific issues involving the government's business.

The purpose of this policy is to provide guidance for City Officers, Employees and Agents who are responsible for City or Department social media pages/platforms, including but not limited to, web and mobile cell phone applications, websites, blogs, photo and video sharing sites, micro-blogging, social networking sites, and any other application that could be reasonably construed as an online, public platform. This policy is intended to address social media as a whole, not just one particular form. While the City's website (www.chattanooga.gov) is the City's primary internet presence, the City recognizes that social media is a tool that can be used to further the mission and vision of the City and keep its residents informed.

Additionally, this policy establishes guidelines to be followed by City Officers, Employees and Agents concerning the day-to-day personal use of social media, web pages, internet sites, online forums, etc.

MISSION

To promote transparency, accountability and civic engagement across the city while maintaining civil discourse and a healthy workplace.

DEFINITIONS

**Agents** -- All City representatives, including its employees and other agents of the City, including without limitation, independent contractors and anyone acting on behalf of, appearing to act on behalf of, or in the name of the City.

**City** -- The City of Chattanooga Government.

**City Social Media Sites/Accounts** -- Pages, sections, or posting locations in social media websites established, managed or maintained by an employee or officer of the City authorized to do so as part of the employee's or officer's duties.

**Content** -- Any posts, writings, material, documents, photographs, graphics, or other information that is created, posted, shared, distributed, or transmitted via social media.

**Custodian** -- The Public Records Manager is responsible for ensuring that all City records created or maintained by the City are retained according to the Tennessee Public Records Act and [Records Control Schedule established under state law] and are properly preserved or disposed of and these include the content on City social media sites.

**Employees** -- All City representatives and anyone employed by the City. The term "employee" includes officers unless specifically omitted in the text or the context requires their exclusion.

**Officers** -- All City Elected and Appointed officials including members of all boards, committees, councils and agencies of the City.

**Social Media** -- Internet and mobile-based applications, websites and functions, other than email with a focus on immediacy, interactivity, user participation, and information sharing. These venues include social networking sites, forums, weblogs (blogs, vlogs, microblogs), online chat sites, and video/photo posting sites or any other such similar output or format. Examples include but are not limited to Facebook, Instagram, Twitter, YouTube and this policy includes emerging new web-based platforms generally regarded as social media or having many of the same functions as those listed.

**Social Media Account** -- Any account established on Social Media.

**Social Media Administrator** -- The City employee(s) expressly designated by the City's Communications Director to monitor, manage, and supervise or control City social media sites as provided by this policy.

SCOPE

This Policy applies to all City officers, employees and agents when working with social media tools on behalf of the City, and applies to an officer's, employee's and agent's use of personal social media sites as addressed in this policy.

ROLES AND RESPONSIBILITIES

The Mayor's Office is responsible for implementing this Policy and leading the City's social media efforts to City business. The City and Mayor's Communications Director, identified City Communications workers and Public Information Officers, shall serve as the Social Media Administrators.

- Official City Social Media Accounts: The City's overriding interest and expectation in deciding what is spoken, published or broadcasted on behalf of the City requires that Official City content be limited to City Social Media Accounts. A list of the Social Media Accounts shall be maintained by the City's Communication Director. The Communications Director shall also maintain a list of the login and password information for each account, so he or she can immediately edit or remove content in accordance with this policy.

    - Departmental-Specific Social Media Accounts: A City Department may seek to develop its own departmental social media account specific to the needs of the Department. On a case-by-case basis, the City's Communications Director must review and approve or deny all requests for developing a Department's own social media account. Accounts that have not been explicitly approved in writing by the Communications Director will be subject to deactivation.
    - Existing Social Media Accounts/Platforms: The City Social Media Administrators must review existing departmental social media sites and tools to ensure they follow this Policy.
- Authorized Social Media Account Publishers: Authorized Social Media Administrators shall:
    - Annually review with the City's policies on the use of City Social Media Accounts.
    - Regularly monitor and manage all comments to their respective City Social Media Accounts.
    - Provide original and updated logins, passwords and other information needed to access Departmental Social Media Accounts to their Department's Communications Managers/Public Information Officer, and the City's Communications Director.
    - Other than the City's Communications Director, only authorized City Social Media Administrators may post, edit, delete, or modify information on Social Media Accounts.
    - Upon employee termination, retirement, or other forms of separation from employer or change in job duties, account ownership remains the City's and the employee must take all necessary steps to protect the City's interest in the site or account.

## STANDARDS AND BEST PRACTICES OF CITY SOCIAL MEDIA ACCOUNTS

The Social Media Administrator shall develop and provide detailed best practices guidance for the City Social Media Accounts and Platforms. The following general standards apply to all City Social Media Accounts including departmental sites.

When using City Social Media Accounts, Authorized Social Media Account Publishers shall:

- Be respectful, professional, ethical, and comply with all City policies, local, state, and federal laws.
- Use proper grammar and avoid technical terms or abbreviations unless there is a common understanding of its meaning.
- Ensure the information communicated is accurate and complete. If a mistake is made, it should be disclosed and promptly corrected.
- Be transparent and truthful. Your honesty--or dishonesty--will be quickly noticed in the social media environment. Remember, you may be personally responsible for your content. Always be careful and considerate. Once the words are posted, they can't be retrieved.
- Be judicious. What you publish is widely accessible and will be around for a long time, so consider the content carefully. A social media post could be used in legal action against the City or its employees.
- Stay current and be consistent with the mission and vision of the City.

When using City Social Media Accounts, Authorized Social Media Account Publishers **shall not**:

- Post personal information, except for names of City employees whose job duties include being available for contact by the public, or as specifically granted by the City's Authorized Social Media Administrators.
- Post something that you would not want to see picked up by news media.
- Post comments, photographs, or videos that could discredit or embarrass the City.
- Post photographs of minors without permission from their parent, guardian or adult responsible for their welfare.
- Express personal views or concerns through City postings.
- Reveal confidential information as defined by any City policy, or local, state, or federal law.
- Post anything that would infringe upon another's property rights, such as copyrighted material.
- Post anything that would injure the professional or personal reputation of a person or entity.
- Violate The Hatch Act by posting any content that engages in political advocacy or commentary, or supports or opposes any ballot issue or candidate for office.
- Post any content that is prohibited on official City Social Media Accounts.

## PROHIBITED CONTENT

In the course of managing the City's social media accounts, which will often include content submitted or published by residents, it is sometimes necessary to moderate comments that may run afoul of City policy. The City prohibits the publication of comments or posts that meet the following criteria, whether by City employees or members of the general public. Posts or comments by residents that meet this criteria should be hidden if possible, and deleted if it is not possible to hide them. Illegal behavior should be reported to the proper authorities.

- Off-topic spam, advertisements or solicitations of commerce
- Profane or obscene language or content;
- Sexual content;
- Threats;
- Defamatory statements;
- Encouragement of illegal activity;
- Violations of legal ownership interest of any other party;
- Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability, or sexual orientation; and information that may tend to compromise the safety or security of the public or public systems.

INTERACTING WITH OTHER SOCIAL MEDIA ACCOUNTS

Interacting with other social media accounts can be a useful tool in informing residents about City activities, policies, and issues. However, Authorized Social Media Publishers should use sound judgment when interacting with other social media accounts because those interactions may easily be misinterpreted. "Interacting" as used here includes, but is not limited to, "likes," "replies," "posts," "retweets," or "following" on social media platforms.

Authorized Social Media Publishers must do the following when considering interactions with non-City social media accounts:

- Read all information in the original and any other relevant post, tweet, or link thoroughly before interacting with it to ensure that it enhances community knowledge about City activities, issues, policies, and priorities.
- Consider whether elevating one organization, business or entity above another will appear unfair or unethical to other residents.
- Consider any potential or active public controversy surrounding the organization, and weigh whether the appearance of city support is appropriate.
- If the content does not specifically address the City, it should be of interest to the particular Official Account's audience. For example, a post from an official partner agency, like the Boys and Girls Club, might be shared via the Youth and Family Development Twitter.

CITY EMPLOYEE'S PERSONAL USE OF SOCIAL MEDIA

The City recognizes that many employees use social media tools, including but not limited to Facebook, Twitter, Nextdoor, or Instagram, in their personal lives to express their views and opinions. Therefore, this policy provides guidelines for City employees when they communicate on social media sites as a private party.

- City employees who are not authorized to speak on behalf of the City shall not use their personal social media account to speak on behalf of the City. Employees, agents and others affiliated with the City must not use the City brand, logo or other City identifiers on their personal sites, nor post information that purports to be the position of the City without prior authorization.
- Employees and agents are discouraged from identifying themselves as City employees when responding to or commenting on blogs with personal opinions or views. Employees must not use their City title when engaging in personal use of social media.
- If the content published on a personal social media account belonging to a City employee who is not authorized to speak on the City's behalf — including but not limited to photos, words, videos, or other content — could potentially cause a reasonable person to believe that the employee is speaking on behalf of the City, the employee shall provide a disclaimer on the account and/or in each relevant post affirming that their opinions and views do not reflect the opinions and views of the City of Chattanooga.
    - The following is an appropriate disclaimer: "These are my own opinions and do not necessarily represent those of the City of Chattanooga."
- While the disclaimer will aid in protecting employees' lawful rights to publish their personal views, the use of this disclaimer does not shield against discipline for violations of City policy. The City reserves the right to regulate what is spoken or expressed on its behalf.

The City respects its employees' private rights to post and maintain personal websites, blogs and social media pages and to use and enjoy social media on their own personal devices during nonwork hours. The following guidelines apply to personal communications using forms of social media:

- The City expects its employees to be truthful, courteous, and respectful toward supervisors, co-workers, residents, customers, and other persons or entities that are associated with or are doing business with the City.
- When a person can be reasonably identified as a City employee or agent, that employee or agent must not engage in name calling, personal attacks, or any other demeaning behavior that could adversely affect their duties, their workplace, the City's relationships or its reputation.
- Incidental and occasional access to personal social media websites during work hours may be permitted with permission from a supervisor, but employees must adhere to the guidelines outlined in the City's IT Comprehensive Technology Use Manual.
- There may be times when personal use of social media (even if off-duty or using the employee's or agent's own equipment) may affect or impact the workplace

and become the basis for employee coaching or discipline. Examples of situations where this might occur include but are not limited to:

- Relationships, dating or romance between co-workers
- Cyberbullying, stalking, threats or harassment
- Release of confidential or private data ○ Racism, sexism, defamation, or any other use of social media that would violate the city's ethics policies or other rules
- Misuse of City-owned social media
- Inappropriate use of the City's name, logo or the employee's position or title
- Using City-owned equipment or City-time for extensive personal social media use or outside ventures
- Violation of law, whether federal, state, local or City policy. For example, The Hatch Act

VIOLATION OF POLICY BY EMPLOYEES, AGENTS OR OFFICERS

Violations of this Policy are considered misconduct and may result in discipline up to and including indefinite suspension or termination as authorized or permitted by law or policy.

If any City of Chattanooga employee, agent or officer believes there has been a violation of this policy they should adhere to the standard reporting protocol and alert their supervisor.

2.13D **Multi-Factor Authentication**

All employees are expected to utilize multi-factor authentication when logging into City computer systems. Employees have the option of having notifications sent to their cell phones or utilizing a DUO token to log into the system. If a token is lost or misplaced, it will be the responsibility of the employee to immediately notify Technology Services and pay and/all replacement costs associated.

2.14 **Administrative Closings**

During weather events or emergency situations, the City will make every effort to maintain normal work hours to provide services to residents. Partial or full-day closings of City administrative offices may be authorized by the Mayor or designee.

During any administrative closing situation, certain essential functions must continue, and Department Heads shall determine which employees are required to report to or remain at work, even when administrative closings are announced.

A non-exempt, non-sworn employee required to work during administrative closing hours shall be paid at one and one-half (1½) times the employee's regular hourly rate.

For non-essential employees not required to report to work due to administrative closings:

- Full-time employees will be paid for such time off

- Part-time employees will be paid only if normally scheduled to work that day, and only for those hours which the employee would normally work

When there is no announcement of an administrative closing, employees are expected to report to work or make other arrangements with their manager or supervisor regarding telework opportunities. Employees are encouraged to stay safe and make the best choice for themselves and their families. However, employees who leave early, report late, or otherwise cannot perform their work functions while City offices are open will be required to take PTO.

Administrative closings are based on matters affecting the City's primary designated work locations.

In certain circumstances, Courts or other offices under a separate authority may close to the public under a different authority other than the Mayor or designee. However, City employees in those offices will still be required to report to work unless an official administrative closing is announced by the Mayor or designee.

Employees deemed essential or required must report to work when instructed by management, and/or are required to remain at work until released by management. For non-exempt, non-sworn employees, the inclement weather pay will apply as outlined in this policy. Standard overtime rates may also apply as provided for in this EIG.

## 2.15 Flex Time

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

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

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

1. The Department Heads have the discretion to determine if staffing coverage is adequate and sufficient to meet the operating requirements;
2. Work weeks and work periods established by Department Heads must be observed;
3. Flextime schedules must be evaluated over a three-month trial period. After the trial period, Department Heads are to evaluate the flextime schedule on a periodic basis (no less than annually) to determine if it meets departmental operating requirements;

4. Department Heads, at their discretion, may implement, continue, discontinue or modify flextime work schedules. In addition, Department Heads have the right to return employees to a standard work schedule at any time without providing justification for such action; and
5. Department Heads are to ensure that flexible schedules allow continuation of normal services.

TYPES OF FLEXTIME SCHEDULES

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

The following types of flextime schedules may be approved:

1. Fixed Schedule – employees may set their own work hours within limits established by management. The employee adheres to a set schedule but one that differs from the normal office business hours.
2. Adjusted Meal Period – employees may adjust the length of their meal period while still working their standard hours for the workday. The minimum time to flex is thirty (30) minutes up to a maximum of one (1) hour.
3. Compressed Schedule – employees may complete a full-time work week in fewer than five (5) days.
4. Health Flex – employees participating in the wellness program may utilize either the Adjusted Meal Period or Peak Hour Flextime schedules.
5. Peak Hour Flextime – employees may flex their daily work hours (outside of peak hours) while working the total standard hours for the day.
6. Telecommuting – certain employees who can fulfill their job responsibilities at home or another approved location may use this option. Telecommuting may be approved by the supervisor and Department Head on a temporary basis at the discretion of the Department Head.

## 2.16 **Nepotism/Personal Relationships**

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

If a personal, romantic, or intimate relationship is established between two or more employees post-hire, it is the responsibility and obligation of the employees involved to disclose the existence of the relationship to the Department Head. When a conflict or potential conflict arises due to the relationship affecting employment, the City reserves

the right to make any and all employment decisions in the best interest of the City, which may include requiring one of the employees to give up their position.

Human Resources Business Partners, whose responsibilities include recruiting, workplace investigations, or advising management on discipline may not be assigned to any department or Office where a family member works or other conflict exists.

# City of Chattanooga Employee Information Guide

| Policy No. 3.0 | Equal Opportunity Employment and Anti-Harassment | Page 1 of 7 |
|---|---|---|
| **Policy Sections:**<br>3.1 Equal Employment Opportunity<br>3.2 Americans With Disabilities And Amendments Act and Reasonable Accommodation<br>3.2A Service Animals<br>3.3 Anti-Harassment<br>3.4 Complaint Process | | Effective: 11/28/2023<br>Supersedes: 1/31/2023 |

## 3.1 Equal Employment Opportunity (EEO)

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

DEFINITIONS:

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

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

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

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

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

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

**Sexual Orientation**: the actual or perceived status of the person with respect to their sexuality..

## 3.2 Americans With Disabilities And Amendments Act and Reasonable Accommodation (ADAAA)

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

When an applicant with a disability requests accommodation and can be reasonably accommodated without creating an undue hardship or causing a direct threat to workplace safety, they will be given the same consideration for employment as any other applicant. Applicants who pose a direct threat to the health, safety and well-being of themselves or others in the workplace when the threat cannot be eliminated by reasonable accommodation will not be hired. Reasonable accommodations are available for the known physical or mental limitations of qualified employees with disabilities. An employee is *qualified* if they can perform essential job functions with or without reasonable accommodation.

A *reasonable accommodation* is a modification or adjustment of an employee's job or work environment that enables that employee to perform essential job functions or enjoy the same employment benefits and privileges as similarly situated employees without disabilities. Examples of reasonable accommodations include: modifying a workspace to make it wheelchair accessible, providing screen reading software, or adjusting an employee's work schedule to accommodate medical appointments. The City does not provide accommodations of a personal nature, such as eyeglasses or hearing aids.

The City of Chattanooga is committed to providing accommodations so long as accommodations do not place an undue hardship on business operations or pose a threat to the health or safety of employees in the workplace.

**Accommodation Process**

The City of Chattanooga will actively engage in an interactive process with employees who request accommodations to determine what, if any, accommodation can be provided. The City aims to process requests for accommodations in a prompt and efficient manner.

Employees can request accommodations by contacting their immediate supervisor or Human Resources.

Employees who request accommodations will be asked to complete a *Disability Accommodation Request Form* and have a physician complete an *Accommodation Medical Certification Form*. Once accommodation documentation is received, the City makes an initial determination about the employee's eligibility for accommodations. The City can request additional medical information, and may require an examination at the City's expense to be performed by a licensed physician of its choice. If there is a disagreement, the employee may request a second examination be performed at the employee's expense. In the event of a disagreement in the two opinions, a third opinion will be obtained with both parties sharing the cost of the examination. The medical evidence must demonstrate that the disability prevents the employee from performing the essential functions of the job.

If the City finds that an employee is eligible for an accommodation, Human Resources will notify the employee's supervisor and will work with the supervisor to examine the essential functions of the employee's job and find what, if any, accommodation can be provided. Any reasonable accommodation approved is to assist the employee in meeting all essential functions of the position; accommodations are not to change the job itself by removing essential functions.

Determinations regarding accommodations are made jointly by Human Resources and the employee's supervisor or department designee. Such determinations are made on a case-by-case basis.

Employees who are denied accommodations are notified of the denial and the basis for the denial. Employees can appeal accommodation determination rulings by requesting a reconsideration in writing to the Chief Human Resources Officer within ten (10) business days of receiving the resolution form.

Accommodations are reviewed annually. As part of the review, employees can be asked to provide updated medical information to demonstrate that the need for accommodations is ongoing.

Employees who have questions about the accommodation process should contact Human Resources.

**Confidentiality**

All information obtained by the City concerning medical conditions or history of employees is maintained in separate medical files and treated as confidential records that are disclosed only as permitted by law. Human Resources representatives and supervisors

who have knowledge of employees' medical information are prohibited from sharing such information unless there is a business need.

**Anti-Retaliation**

Retaliation for requesting or being granted a disability accommodation is prohibited. If an employee believes that they are subject to retaliation based on a disability accommodation(s) or a disability accommodation request, they should inform the Human Resources Department or the Chief Human Resources Officer directly.

3.2 A **Service Animals**

A service animal may be an accommodation that is requested by an employee through the reasonable accommodations process.

For purposes of this policy, "service animal" has been defined by the ADA as any dog that is individually trained to do work or perform tasks for a person with a disability. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties.

Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

The City will evaluate all requests to bring a service animal into the workplace to determine if the accommodation is reasonable and can be provided without undue hardship. Employees may be asked to bring the service animal to the workplace to demonstrate the animal's training and ability to be in the workplace without disruption.

All service animals must be licensed and in compliance with local laws. They must also be current with all vaccinations including rabies. The service animal must wear a tag displaying their vaccination status as well as the employee's name and phone number. Service animals must be under the control of their handler. Under the ADA, service animals must be harnessed, leashed, or tethered, unless the individual's disability prevents using these devices or these devices interfere with the service animal's safe, effective performance of tasks. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

The service animal's handler must be in complete control of the service animal at all times. The care and supervision of a service animal is solely the responsibility of its handler. An individual who brings a service animal onto City premises is completely and solely liable for any injuries and/or damage to personal property caused by the animal. Any repair or cleaning costs incurred due to a service animal will be charged to the employee (handler). The employee (handler) is expected to clean and dispose of all animal waste appropriately.

The City expects all service animals and their respective handlers to exhibit reasonable behavior while on the premises. The service animal must be properly groomed, free of fleas/ticks/parasites and maintained so as to avoid disruption of others in the workplace. In addition to the requirements above, a service animal may be removed from the City's premises for one of the following reasons:

- The service animal acts out of control or behaves poorly to cause disruptions, and the employee fails or is unable to take effective action to control the service animal to include but is not limited to barking, growling, and snarling.
- The service animal is unclean, has fleas/ticks/parasites, and/or is not housebroken.

If the service animal consistently behaves improperly, the employee (handler) may be directed to not bring the service animal onto City property until the employee (handler) corrects the service animal's behavior.

### 3.3 Anti-Harassment

The City of Chattanooga is an Equal Opportunity Employer. We value and respect the diversity of our employees, directors, administrators, consultants, representatives, contractors, vendors, and communities. As part of our culture of respect and appreciation, we believe that people with varied backgrounds and perspectives add vitality and creativity to our community, and we encourage diversity in the workplace. To that end, we provide equal employment opportunities regardless of an individual's age, sex, race, color, religion, disability, national origin, citizenship, protected veteran or military status, sexual orientation, gender identity, ethnic origin, political affiliations, genetic information, marital status or any other characteristic protected by federal, state, or local law.

The City of Chattanooga is committed to providing equal opportunity in all our employment practices. We will hire, evaluate, transfer, compensate, and promote employees based on skills and performance and not on any unlawful consideration. Our commitment to equal employment opportunity includes an organizational intolerance of any form of discrimination, sexual harassment, or any other type of harassment. Such behavior undermines the very core of our creed and values. Performance and conduct consistent with the spirit and intent of these policies is expected of each employee and, in the case of management employees, such performance will be evaluated as in any other job-related duty. Any form of harassment is a violation of this policy and will be treated as a disciplinary matter.

Discrimination and harassing behavior are destructive to our culture and against our core values. Discrimination is any unfair or unfavorable treatment suffered by any employee because of the employee's inclusion in a protected category. The areas of employment which may be affected by discrimination include, but are not limited to compensation, promotions, recruiting, job evaluations, job training, and hiring. Harassment is a form of discrimination. Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based upon any category protected by law. Harassing behaviors may include

but are not limited to racist, sexist, xenophobic, homophobic, ageist or other derogatory comments; name-calling, kidding, teasing; or jokes directed at one person or group due to their membership in a protected category.

The City of Chattanooga will not tolerate discriminatory or harassing conduct that affects pay or benefits, that interferes with an individual's work performance, or that creates an intimidating, hostile, or offensive working environment. The City will not tolerate discrimination or harassment of employees by anyone, including any supervisor, co-worker, contractor, vendor, client, or visitor. This policy does not in any way prohibit an employee's religious identity. City employees cannot be denied jobs, lose their employment or be demoted for stating and/or exercising their religious identity as guaranteed under the United States Constitution and state law.

DEFINITIONS

The term "harassment" is used in this policy to refer to both sexual and other forms of harassment. Below are definitions of sexual and other forms of harassment, as well as examples of conduct that may constitute harassment. (These lists are examples only; they are not all-inclusive.)

**Sexual Harassment** - Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct pertaining to a person's sex (including pregnancy, childbirth, breastfeeding or related medical conditions), and/or of a sexual nature when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or;
2. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individuals or;
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating a hostile or abusive work environment.

Sexual harassment does not need to be motivated by sexual desire to be unlawful or to violate this policy. For example, hostile acts toward an employee because of their gender can amount to sexual harassment, regardless of whether the treatment is motivated by any sexual desire. Examples of conduct which may result in sexual harassment may include, but are not necessarily limited to, the following:

**Verbal** - Unwelcome conduct such as the use of suggestive, derogatory, or vulgar comments; the use of sexual innuendos or slurs; making unwanted sexual advances, invitations, or comments; pestering for dates; making threats; propositions, threats or suggestive or insulting sounds; inappropriate email; and/or spreading rumors about or rating others as to their sexual activity or performance.

**Visual/Non-Verbal** - Unwelcome conduct such as the display of sexually suggestive and/or derogatory objects, pictures, posters, written material, cartoons,

or drawings; the use of graffiti and/or computer-generated images of a sexual nature; and/or the use of graphic commentaries, obscene gestures or leering.

**Physical** - Unwelcome conduct such as unwanted touching, pinching, kissing, patting, or hugging; the blocking of, or interfering with normal movement; stalking; assault; battery; and/or physical interference with work or study directed at an individual because of the individual's sex, sexual orientation, or gender.

**Threats, Demands, or Pressure** - To submit to sexual requests in order to keep a job or job standing to avoid other loss, and/or offers of benefits in return for sexual favors.

**Other Forms of Harassment** - In addition to sexual harassment, other forms of prohibited harassment or discrimination include offensive comments or conduct pertaining to a person's sex (including pregnancy, childbirth, breastfeeding or related medical conditions), race, religion (including religious dress and grooming practices), color, gender, gender identity, gender expression, national origin or ancestry (including language use restrictions), physical and/or mental disability, medical condition, genetic information, marital status, registered domestic partner status, age, sexual orientation, military and/or veteran status, association with a person or group with one or more of these actual or perceived characteristics, or any other basis protected by federal, state, or local law or ordinance or regulation. Such conduct may include, but is not limited to:

- Making gestures, threats, derogatory comments, or slurs that may be offensive to individuals in a particular group,
- Bullying behavior that is threatening, intimidating, verbally abusive or results in other disruptive actions in the workplace,
- Displaying derogatory objects, photographs, cartoons, calendars, or posters;
- Sending messages by letters, notes, email, or telephone that may be offensive to individuals in a particular group.

3.4 **Complaint Process**

See Policy 17

# City of Chattanooga Employee Information Guide

| Policy No. 4.0 | Personnel/Human Resources Records | Page 1 of 4 |
|---|---|---|
| **Policy Sections:**<br>4.1 Employee Access to Personnel Records and Management Files<br>4.2 Management Access to Personnel Files<br>4.3 Disclosure of Employee Records and Information | | Effective: 9/19/2023<br>Supersedes: 1/31/2023 |

All accounts and records, including papers, books, documents, memoranda and reports of all kinds in any departments or offices of the City shall be open to public inspection at all reasonable times except as otherwise provided by state statutes.

Personnel records for each employee are kept on file and maintained in a secure manner by the Human Resources Department. Chattanooga Police Department (CPD) has an internal personnel unit and employee files are stored and maintained therein; CPD is the custodian of record for such files. The personnel file may contain, but not be limited to, the following information:

1. Personnel action forms noting position and wage information;
2. Performance evaluation forms and other documentation related to an employee's job performance;
3. Employment documentation including application and resume, employee data sheet, and income tax deduction forms;
4. Outside employment forms;
5. Official commendations, training and education records including certificates and diplomas;
6. Complete documentation pertaining to all disciplinary matters and corrective actions;
7. Information relative to grievance proceedings, and complaints of discrimination and harassment filed by the employee; and
8. Information regarding terminations, letters of resignation and retirement notices.

Documents related to benefits or leave should be submitted to Human Resources in a timely manner, including for all CPD employees. Documents related to completed education or training should be submitted to the Human Resources, or CPD personnel unit, as appropriate.

Each employee is responsible for updating personal information in the City's electronic data system. The City shall not be held liable when incorrect withholding, wrong beneficiaries, or loss of employee benefits result from the failure of any employee to keep their personnel records current.

Human Resources also maintains the pension, retirement, and PTO records for each employee. All medical records shall be kept in a separate confidential file for each employee. Medical information obtained from City-provided medical examinations are the property of the City of

Chattanooga. These documents will be maintained in a confidential file system that is not open for public inspection. Information may include without limitation the following: benefit documentation such as health insurance and retirement forms, fitness for duty examinations, drug testing results, medical information related to leaves of absence, inoculation records, etc. Injury on Duty (IOD) documents will be maintained in the same medical file system under separate cover. These procedures are in accordance with the confidentiality requirements of the Health Insurance Portability and Accountability Act (HIPAA), Americans with Disabilities Act (ADA), Family Medical Leave Act (FMLA), rules and regulations of the Equal Employment Opportunity Commission (EEOC), and the Tennessee Open Records Act (TORA).

**The following basic principles will be applied in collecting and retaining personal information:**

1. The Human Resources Department may maintain a complete (master) file of each employee's records, which will contain necessary information, as determined by the Chief Human Resources Officer.
2. All documents maintained in the employee's official personnel file are subject to the records retention periods set forth in the City's Records Retention Schedule.
3. Each Department Head or designee may maintain a secure file on each employee that includes performance evaluations, attendance records, notes, memos, letters, or other information related to an employee's employment history. However, all of these documents must also be forwarded to the Human Resources Department in a timely manner for inclusion in the employee's official personnel file.
4. Payroll data may be kept separately from the human resources file and the departmental file, although both may include information about an employee's salary history.
5. Employee information may be collected from employees whenever possible, but the City may use outside sources for other information.
6. Information in the personnel file, including salary information, may be given to prospective employers, lending institutions, and other persons and entities seeking information for employment, credit or other business purposes with a written request from the employee. Following Tennessee laws, personnel records are considered public records under TORA and may therefore be inspected, extracted, or copied by any resident of the state during normal business hours.
7. Requests for inspection or copying any personnel file be directed to the Office of the City Attorney, Public Records Officer. Tennessee residents shall be required to make an appointment and show identification verifying state residency. A designated HR representative shall be present at all times when any personnel file is reviewed. Pursuant to T.C.A. §10-7-504, portions of an employee's personnel record and information submitted by applicants shall be treated as confidential and not open for public inspection. **Confidential information** includes social security numbers, home addresses, home and personal cellular telephone numbers, personal or non-government email addresses, bank account information, performance evaluations, and driver's license information, except where driving or operating a vehicle is part of the employee's job description or job duties or incidental to the performance of their job, and medical records of employees receiving medical treatment, in whole or in part, at the City's expense. The same information

concerning the employee's immediate family or household members is also considered confidential with restricted access.

## 4.1 Employee Access to Personnel Records and Management Files

Under normal circumstances, employees may have access to their personnel files. The basic guidelines for access are as follows:

1. Employees may review their personnel file. If the employee disagrees with any information found therein, the employee may place a written disagreement, which will be attached to the specific document, in the files;
2. An employee desiring to access the personnel file of another employee must follow the procedures for open records requests; and
3. When employees wish to review their personnel files, they may submit a written request to the Human Resources Department, or CPD personnel unit as appropriate,at least twenty-four (24) hours prior to the requested review date.

Employees must review the file in the presence of a designated Human Resources representative. Employees may take notes and may request a copy of any of the file's contents subject to the City's policy on copy charges. Any questions about the information's accuracy shall be referred to Human Resources. Employees may submit a note of disagreement to Human Resources and a form on which disagreements may be expressed shall be provided.

## 4.2 Management Access to Personnel Files

Individuals in an employee's direct chain of command, employment counselor, and other Human Resources Department personnel in the course of their duties may be given access to an employee's personnel record without notification to the employee. Additionally, the Office of Internal Audit shall have unfettered access to personnel files.

## 4.3 Disclosure of Employee Records and Information

The content of employee personnel files is open to public inspection under the Tennessee Open Records law; however, some personal information has been deemed confidential under state and federal law. Only the Chief Human Resources Officer is authorized to disclose information about employees to outside inquirers. Confidential information shall only be disclosed under the following circumstances:

1. Properly identified and duly authorized law enforcement officials when investigating allegations of illegal conduct by employees;
2. Legally issued summons or judicial orders, including subpoenas and search warrants; and
3. Others as legally allowed by state and federal law.

Inquiries for detailed employment information or public inspection of employee records shall be made in writing and directed to the City Attorney's Office who will then forward the request to the appropriate departments. Police Department Records and Reports may be exempt by reason of certain regulations, and all requests will be reviewed by the Chief of Police on a case by case basis, and will comply with Tennessee Law. The appropriate

personnel shall respond to requests as promptly as possible, and then the City shall make the record available within seven (7) business days, deny the request in writing, or furnish the requestor a completed records request response form stating the time reasonably necessary to produce the record or information. Confidential information will be redacted out of any personnel files that are requested for inspection, as per Tennessee Law. Adequate time will be allotted to allow for redaction of such information as allowed by law. All requests will be completed promptly, and in a responsive and timely manner.

In all such matters, the employee will be notified within seventy-two (72) hours of the records request. Exceptions may be made to release limited general information, such as the following:

1. Employment dates;
2. Position title; and
3. Work location.

| Policy No. 5.0 | Recruitment | Page 1 of 5 |
|---|---|---|
| **Policy Sections:**<br>5.1 Minimum Age<br>5.2 Residency Requirement<br>5.3 Applications<br>5.4 Recruitment by Examination<br>5.5 Post-Offer Requirements<br>5.6 Employee Onboarding<br>5.7 Probationary Period | | Effective: 5/13/2025<br>Supersedes: 6/4/2024 |

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

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

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

## 5.1 **Minimum Age**

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

employees is twenty-one (21) years of age.

5.2 **Residency Requirement**

Per Section 3.1.1 of the City Charter, all employees of the City shall be residents of the State of Tennessee. This shall only apply to those employees working in the general government of the City. Those employees who were hired on or before January 18, 1990, and who have lived outside the State of Tennessee continuously since said date, shall be exempted from Section 3.1.1 of the City Charter.

Employees in positions deemed essential, and those occupying positions that have or may have on-call responsibilities may be required to reside within a designated distance from their primary work location to ensure minimal disruption to City operations and work processes. Such requirements shall be defined by department policies. In the absence of a department policy, essential employees must be able to respond to their designated reporting location within sixty (60) minutes or with notification and approval of supervisor of extenuating circumstances. “First Responders” as defined by Tennessee Code Title 8 Chapter 50 Section 107 are not subject to the 60-minute reporting requirement.

All employees are required to maintain their current home address and telephone number on record with the City.

The Mayor, at their discretion, may designate a residency requirement more narrowly defined based on the necessity of emergency operations.

All employees are required to maintain their current home address and telephone number on record with the City. Employees living outside of Tennessee may be required to provide tax documents for their state of residence.

5.3 **Applications**

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

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

Qualifications for employment or in-service promotions shall be based upon qualifications.

The Human Resources Department shall work closely with Department Heads to prepare relevant examination components and procedures tailored to meet the specific needs of the departments and to ensure the employment of the best qualified applicants.

5.4 **Recruitment by Examination**

All vacant positions within the City shall be filled according to qualifications, and applicants may be subject to competitive examination. All examinations shall fairly and impartially test those matters relevant to the applicant's ability to successfully perform the job.

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

- **Written/Knowledge-based Test** – this test, when required, shall include a written demonstration designed to show the applicant's familiarity with the knowledge involved in the class of positions to which they are seeking employment.
- **Oral Test** – This test shall include a personal interview where the ability to deal with others, to meet the public, and/or other personal qualifications are to be evaluated. An oral interview may also be used in examinations where a written test is unnecessary or impractical or as a reasonable accommodation to someone unable to take a written test due to a disability.
- **Performance Test** – This test shall involve performance tests as would aid in determining the ability and manual skills of applicants to perform the work involved. The performance test may be given a weight in the examination process or may be used to exclude from further consideration applicants who:
    - Cannot perform the essential functions of a specific position due to a disability that cannot reasonably be accommodated; and
    - Pose a direct threat to themselves or others.
- **Physical Agility Test** –this consists of job-related tests of bodily conditioning, muscular strength, agility, and physical fitness of job applicants for a specific position. This test may be given a weight in the examination process or may be used to exclude from further consideration applicants who do not meet the minimum required standards.
- **Polygraph Exam** – this exam may be used for certain public safety positions within the Police and Fire Department to aid in determining the truthfulness of an applicant's application/screening questionnaire, employment history, use of illegal drugs, general history, thefts from employers, criminal history, and vehicle driving record. The polygraph exam may be used to exclude from further consideration applicants who:
    - Are found deceptive; or
    - Are not in compliance with policy.

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

5.5 **Post-Offer Requirements**

Following a conditional offer of employment, successful completion of any and all required post-offer processes (employment physicals, drug screening(s), etc.) applicable to the job will be required before a candidate can begin working for the City. All applicable on-site screening tests will be conducted in Chattanooga, Tennessee regardless of the home address of the applicant. A post-offer employment physical may be required for candidates to determine whether prospective employees can perform the essential functions of the position offered. The physical may require various components depending on the requirements for the position.

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

- Cannot perform the essential functions due to a disability that cannot reasonably be accommodated; or
- Pose a direct threat to themselves and/or others.

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

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

All City employees may, during their employment, be required to undergo an initial and/or periodic examination to determine their physical and mental fitness to continue to perform the work of their positions.

As a condition of employment with the City of Chattanooga, participants of the Fire and Police Pension Fund shall be required to participate in periodic screening tests or examinations relating to heart and lung conditions, such as but not limited to cholesterol tests, blood pressure checks, pulmonary function tests, and blood tests. If any screening examination suggests the need for a more complete medical evaluation, the employee shall be scheduled for a fitness-for-duty examination by a physician selected by the City.

### 5.6 **Employee Onboarding**

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

1. A W-4 form; separate income tax form(s) may be required for Tennessee and the employee's home state of residence, if applicable;
2. An Employment Eligibility Verification Form (I-9) and any supporting documents;
3. Orientation attendance form;
4. A copy of educational certification, professional license, certificate, or any other

required documents to include a copy of the employee's driver's license, if the position requires driving a City Vehicle;

5. Residency Requirement Form;
6. Beneficiary designation forms; and
7. A direct deposit form

New employees are required to attend a new employee orientation in person at the location designated by Human Resources. At this orientation, employees will be provided with relevant information to assist them with the onboarding process.

## 5.7 **Probationary Period**

Immediately upon employment, all civilian employees will enter a six (6) month probationary period from their first day of employment.

Persons employed in fire protection positions in the Fire Department will serve a probationary period of twelve (12) months from their first day of employment.

Persons employed in law enforcement positions in the Police Department will serve a probationary period beginning on their first day of employment and ending twelve (12) months from their first day of academy.

During this phase of employment, employees are evaluated on their ability to become a productive City employee. Your ability to perform tasks; work and communicate with others; follow directions, display a positive attitude; work with or without supervision; promptness; willingness to work; judgment, and integrity will be evaluated. Before the end of the introductory period, supervisors will review employees' job performance and advise employees of their progress. The City of Chattanooga reserves the right to dismiss any employee (without prior warning) for not meeting the organization's employment standards.

Employees (non-sworn only) transferring or promoting to new classifications will also serve a three (3) month probationary period. See Policy 7 Employment Actions.

Injury on Duty, FMLA, or any leave taken during a probationary period may extend the end date of the probationary period.

Probationary employees shall not be entitled to any due process hearings with respect to discharge and newly promoted or transferred employees shall not be entitled to due process hearings should the employee be reinstated in their former position pursuant to reversion rights as stated in Policy 7.8. For all probationary discharges the supervisor shall submit written documentation to the Human Resources Department for inclusion in the employee's official personnel file.

# City of Chattanooga Employee Information Guide

| Policy No. 6.0 | Outside Employment | Page 1 of 1 |
|---|---|---|
| **Policy Sections:** | | Effective: 9/19/2023<br>Supersedes: 1/31/2023 |

The City expects an employee's work for the City to take precedence over any outside employment engaged in by an employee.

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

The Fire and Police Chiefs shall establish written policies in collaboration with the Chief Human Resources Officer on any additional public safety-specific requirements for outside employment for their employees.

Employees must get prior written approval from the Department Head before engaging in other employment. Approval must be reviewed annually and included/updated in the employee's official personnel file.

| Policy No. 7.0 | Employment Actions | Page 1 of 4 |
|---|---|---|
| **Policy Sections:**<br>7.1 New Hires<br>7.2 Promotions<br>7.3 Lateral Transfers<br>7.3A Employee Requests for Lateral Transfers<br>7.4 Reassignments<br>7.5 Temporary Assignments<br>7.6 Demotions<br>7.7 Rehire<br>7.8 Reversion Rights<br>7.9 Dismissal | | Effective: 2/27/2024<br>Supersedes: 1/31/2023 |

Employment actions are subject to review by the Human Resources Department. City Departments shall first consult with the Human Resources Department prior to making staffing adjustments, including but not limited to appointments, internships, contingent staffing, and any classified positions.

## 7.1 New Hires

All City officers, agents and employees nominated, appointed or employed are defined as new hires during the first six (6) months of initial employment or reemployment. See Policy 5.7 Probationary Period.

## 7.2 Promotions

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

For non-sworn classified positions, a promotion shall trigger a new three (3)-month probationary period.

For sworn positions, refer to department policy for probationary periods following a promotion.

Non-sworn employees will not be eligible for promotional opportunities if they have received a First Written Reprimand or higher in the last twelve (12) months, if they are on a Last Chance Agreement, or if they are currently on or have been on a Performance Improvement Plan (PIP) in the most recent twelve (12) month period.

## 7.3 Lateral Transfers

A lateral transfer refers to an employee moving from one position to the same position that is classified in the same salary grade.

## 7.3 A Employee Requests for Lateral Transfers

After completing six (6) months in current position, an employee may desire a lateral transfer to increase career opportunities or as a career path change. Transfers are at the discretion of Management and subject to staffing needs and requirements.

An employee may request a lateral transfer from one department/ division to another, provided the position is in the same classification and pay grade, and only if the employee is not currently in a probationary period.

A lateral transfer from a current classification to the same classification does not provide a pay increase.

An employee who transfers within the same classification and within the same department shall not serve a new probationary period.

An employee who transfers to another department but within the same classification, shall serve a probationary period of not more than three (3) months and shall have reversion rights to their former position for three (3) months. See Policy 7.8 Reversion Rights.

Non-sworn employees will not be eligible for transfer opportunities if they have received a First Written Reprimand or higher in the last twelve (12) months, if they are on a Last Chance Agreement, or if they are currently on or have been on a Performance Improvement Plan (PIP) in the most recent twelve (12) month period.

## 7.4 Reassignments

A reassignment is a management action, assigning an employee from one position to another within the same classification and salary grade. Management may implement a reassignment within their own department/division. City Administration may implement a reassignment between departments based on business needs.

If an employee is reassigned within the same classification before they have passed the probationary period, the probationary period shall continue, but not restart.

## 7.5 Temporary Assignments

Upon approval of the department head, employees may be reassigned temporarily based on business needs or pending the outcome of an investigation. If an employee is to be temporarily assigned to another work location or responsibility due to a business need and not because of a pending investigation, then notice may be given for the reassignment when feasible and include an estimated timeframe for the temporary reassignment. In general, a temporary reassignment should not exceed six (6) months.

## 7.6 Demotions

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

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

## 7.7 Rehire

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

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

1. **Reinstatement**. For up to a period of eleven (11) months and twenty-nine (29) days from the date of separation (as dated on the last official record), a former City employee may be reinstated under the following conditions:
    a. The employee is rehired and restored into the same position that was held at the time of separation;
    b. The employee left in good standing.
    c. The employee was vested in the City General Pension and/or Fire and Police Pension Plan at the time of separation; and the employee did not withdraw their employee contributions and remain vested with the General Pension and/or Fire and Police Pension Plan and/or all employee contributions are repaid to the Fire and Police Pension Plan prior to reinstatement. Repayment of pension benefits is not allowed for reinstatement under the General Pension Plan.

    A reinstated employee meeting these conditions will be provided the same fringe benefits (with the exception of PTO accruals and/or accrual rate) and prerequisites of seniority that the employee was receiving when they left employment. Reinstated employees are not entitled to any upward adjustments with respect to any condition of employment which would have occurred by virtue of continued employment during any period that the employee left in good standing with the City. This time limitation shall not apply to veterans who are entitled to be reinstated without loss

of benefits pursuant to federal or state law, or employees reinstated as a result of legal proceedings.

2. **Reemployment**. There is no time limitation on reemployment of a former classified City employee, provided that they left in good standing. A person who is reemployed has only those rights, benefits and conditions of employment as any other newly hired City employee for that position. All rights, benefits and conditions of previous employment with the City are forfeited after employee separation, voluntary or involuntary. Therefore, all accrual periods, probationary periods, and longevity calculations shall begin on the first day of work of the current employment period, unless otherwise provided by federal or state law or in the City's Charter, Ordinance or Resolution. Previous City employees who were and will be covered by the Fire and Police Pension Fund of the City of Chattanooga, must comply with 1) Chapter 165, Private Acts of Tennessee, 1949; 2) Charter of the City of Chattanooga, Sections 13.63-13.64; 3) City Code Chapter 16; and 4) City Code, Chapter 2, Article III, Division 18, Sections 2-400 through 2-429 to be eligible for either reinstatement or reemployment.

The City reserves the right not to reemploy or reinstate any former City employee. Nothing herein shall be construed to limit or to increase the reemployment or reinstatement rights afforded to veterans pursuant to federal or state law. Veterans shall be afforded whatever reemployment or reinstatement rights they may be legally entitled to receive. Nothing herein shall be construed to change any time limitations or pre-existing conditions or provisions provided through any health, life or accident insurance in force.

Nothing herein shall be construed to provide any contractual rights or to vest any rights in any present or former employee and shall be construed only as an internal management policy subject to change or exception at any time by the Mayor.

## 7.8 Reversion Rights

Reversion rights as provided herein allow an employee the right to return to their last previously held position. Reversion rights are restricted to promotions and transfers only and are limited as outlined in this policy.

Reversion rights may not be exercised while a pending workplace investigation related to workplace violence and/or unlawful discriminatory action(s) is active, or if the investigation results in substantiated findings of either workplace violence or unlawful discriminatory action(s).

Reversion rights do not apply to sworn positions.

## 7.9 Dismissal

See Policy 19.5C

# City of Chattanooga Employee Information Guide

| Policy No. 8.0 | Separation of Employment | Page 1 of 5 |
|---|---|---|
| **Policy Sections:**<br>8.1 Types of Separations<br>8.2 Resignations<br>8.3 Reduction-In-Force<br>8.4 Retirement<br>8.4A General Pension Fund<br>8.4B Fire and Police Pension Plan<br>8.5 Exit Interviews<br>8.6 Disability<br>8.7 Death | | Effective: 9/19/2023<br>Supersedes: 1/31/2023 |

## 8.1 Types of Separations

All separations of employees from positions with the City shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction-in-force, retirement, disability, death, and dismissal. At the time of separation and prior to final payment, all records, assets, and other City property in the employee's custody must be returned to the department. Any amount due because of shortages or deductions in arrears shall be withheld from the employee's final compensation. Reimbursement cannot result in the employee being paid less than the federal minimum wage.

Regardless of an employee's type of separation or reason for separation, their employment separation date is their last day worked. PTO may not be used to extend an employee's separation date beyond their last day worked.

## 8.2 Resignations

Resignation occurs when an employee chooses to end employment with the City. An employee who desires to resign in good standing shall submit a written resignation at least two (2) weeks in advance, setting forth their final work date and reason for resigning. Employees failing to provide a two (2) week written notice are considered as resigning *not in good standing* and may be considered ineligible or not recommended for future employment with the City.

## 8.3 Reduction-In-Force

Department Heads have been charged with the responsibility of restructuring their departments to eliminate those positions not essential to the mission of the department. A goal is to accomplish the reduction in force without any change in the level of services rendered to the residents of Chattanooga. This may require a reorganization of the responsibilities of those employees who remain.

Any City employee may be laid off for lack of work or lack of funds without a reflection on their standing. At least two (2) weeks' written notice of the effective date of the layoff shall be given to each employee affected, with the exception of seasonal or temporary employees, specifically stating the reason for the layoff. Such notice shall be signed by the Department Head or designee.

Regular employees shall not be laid off until all part-time, temporary and seasonal employees occupying the same class are laid off, unless the non-regular employees' jobs are not funded solely by the City. Employees affected by the reduction in force may apply for consideration for other vacant positions for which they qualify. Affected employees may also apply for employment with the City for any advertised vacancy for which they are qualified, including internal job postings for a period of two (2) years from the reduction in force.

The primary criterion for selection of those positions and employees affected by the reduction in force is based on whether the positions are critical to meeting the goal of maintaining the current level of service. Evaluation records may be used in determining which employees shall be laid off when two (2) or more employees are basically qualified to fill one (1) position. Also, seniority may be used as a criterion, at the discretion of the Mayor, or any other objective criteria that has a rational basis and is not inconsistent with state or federal law.

Nothing in this policy limits in any way an employee’s right to retire, resign or to utilize the City’s grievance policy. An employee notified of their dismissal shall be provided the opportunity for an informal hearing before the Department Head while in a pay status. The only issue relevant in such a hearing is the City’s failure to comply with the criteria and procedures set forth in this policy or other applicable law. The employee and their representative shall be afforded the opportunity to explain why they should not be terminated. The Department Head shall provide a written response to the issues raised by the employee.

## 8.4 Retirement

Retirement is defined as voluntary withdrawal from City employment by an employee eligible to receive retirement.

The employee who wishes to commence retirement should give notice to their supervisor to initiate separation from service. The notice should give the supervisor ample time to make arrangements for the work of the departing employee to be done.

## 8.4A General Pension Fund

A participant who reaches one of the following milestones may elect to retire.

1. Has attained the normal retirement age sixty-two (62) or greater,
2. Has vested and has decided to terminate early and commence retirement at some point between the age of fifty-five (55) and the normal retirement age of sixty-two (62) with a reduced benefit, or

3. Has fulfilled the requirement for 'Rule of 80' retirement and has elected to retire prior to the normal retirement age of sixty-two (62) with full benefits.

### 8.4B Fire and Police Pension Plan

A participant in the Fire and Police Pension Plan will need a minimum of twenty-five (25) years of pension credit service to retire with unreduced benefits. There are additional accruals to the formula for each year of additional service up to thirty (30) years. Additional restrictions based on age or retirement with reduced benefits may apply. Please refer to the Summary Plan Description for more details.

The employee wishing to retire should make an appointment with the Plan Administrator for the pension plan in which they participate to review current benefit calculations and explore options.

When an employee becomes vested in the General Pension Plan, after earning 60 pension credits, they may contact the Human Resources Pension Analyst to obtain current benefit projections or use the calculator available on the website **www.chattanooga.gov/general-pension-plan** to estimate the future retirement benefit under various scenarios.

If the employee has questions about the benefit program or specific benefits, they may contact as appropriate the Pension Analyst or the Employee Benefits office.

For employees qualifying for a DROP, there is a required form indicating how the DROP benefit will be paid – either as a lump sum or a rollover to a traditional IRA or similar tax deferred account. Benefits are taxed immediately in the lump sum election but taxes continue to be deferred until funds are withdrawn in the rollover election. Please refer to the plan booklet or description for your pension plan for information on DROP benefits.

For employees qualifying for continuation of health insurance benefits into retirement, there is a form providing the rate quote for the benefit election at retirement to authorize deduction of the premium from the retirement benefit payment. Please refer to the material for Retiree Health Benefits in the Employee Benefits section of this Guide.

An employee who has vested their benefit in the General Pension Plan and transfers employment under provisions of the Fire and Police Pension Plan will have the right to vest in the Fire and Police Pension Plan with five (5) years of pension credit service. Contact the Pension Office at (423) 893- 0500 or www.cfppf.org for details.

## 8.5 Exit Interviews

All employees who are separating from employment with the City are encouraged to schedule an exit interview with the Human Resources Department. The employee may complete an in-person interview or complete a paper or online exit interview survey. The purpose of exit interviews is to ascertain information pertaining to the employees' experiences and the factors that contributed to their leaving the City. Data from exit interviews may be used to help improve human resource management practices such as recruiting, training, and working conditions. Additionally, the exit interview provides information that may show trends in voluntary terminations and help guide efforts to improve areas that may be leading to turnover.

8.6 **Disability**

Disabilities may arise for employees from injuries suffered on or off the job or from medical conditions that may or may not be related to the job. If an employee is unable to return to work release and has exhausted all available leave whether paid or unpaid; employment will be terminated subject to evaluation by the Human Resources Department.

8.7 **Death**

When the unexpected death of an active employee occurs, the employee will be separated from service effective on the date of death of the employee. Certain benefits based upon employment may be payable:

1. Tennessee law provides that an employee may designate a beneficiary to receive payment for any remaining wages owed at the time of death. All unpaid compensation shall be paid to the employee's designated beneficiary(ies) according to the designation on the Wages Payable Upon Death form. In the absence of a designated beneficiary, amounts due shall be paid to the estate of the employee, except for any amounts that by law must be paid to the surviving spouse.
2. Death benefits payable under the City's Group Term Life Insurance Plan and the Accidental Death and Dismemberment Rider, if applicable, will be paid to the designated beneficiary(ies) in a timely manner after the date of death and upon receipt of the appropriate documentation.

The deceased employee may have been a participant of either the General Pension Plan or the Fire and Police Pension Fund. Death benefits may be payable from the pension plan depending upon the status of the employee in the plan.

GENERAL PENSION PLAN

If a participant in the General Pension Plan dies before they have a vested benefit in the plan, the beneficiary is entitled to the return of contributions the participant made into the pension plan.

If a participant in the General Pension Plan dies after they have a vested benefit in the plan, and the participant has completed a pre-retirement option election, then the retirement benefit will be calculated according to that optional payment election. If no pre- retirement election has been made, the beneficiary is entitled to receive either the return of contributions the participant made to the pension plan or an annuity payable for ten years calculated as if the participant had elected a life annuity with ten years certain as the retirement benefit. The benefit shall be payable as though they had been entitled to have the optional benefit commence on their date of death.

FIRE AND POLICE PENSION PLAN

Beneficiaries of sworn Firefighters and Police Officers who are participants of the Fire and Police Pension Fund are eligible for a ten-thousand dollars ($10,000.00) lump sum death benefit through the Fund. Participants must notify the Fire and Police Pension Fund of any changes in beneficiary in writing and complete the appropriate form(s). Contact the Fund office at (423) 893-0500 or **www.cfppf.org** with any questions. Additional periodic death

benefits may be available to the spouse or dependents of participants in accordance with current Pension legislation.

# City of Chattanooga Employee Information Guide

| Policy No. 9.0 | Compensation | Page 1 of 9 |
|---|---|---|
| **Policy Sections:**<br>9.1 Personnel Complement Control<br>9.2 Employee Pay<br>9.3 Employee Time Records<br>9.4 Reporting Pay<br>9.5 Breaks and Lunches<br>9.6 Payroll Deductions<br>9.7 Overtime Pay and Compensatory Time<br>9.7A Overtime Compensation<br>9.7B Compensatory Time Off<br>9.7C Definitions<br>9.8 Fill-In Pay for Non-Exempt Employees (Does Not Include Sworn Fire)<br>9.9 Work Out Of Classification for Exempt Employees<br>9.10 On-Call Pay<br>9.11 Call Back Pay<br>9.12 Longevity Pay<br>9.13 Pay Rates for Changes in Status | | Effective: 10/28/2025<br>Supersedes: 05/13/2025 |

The Chief Human Resources Officer for the City of Chattanooga is required to set forth and maintain a compensation plan, which is the official pay plan for all positions in City Government and for those employees who work for the City, with the exception of elected officials. It is the intention of the City of Chattanooga to use a compensation system that will determine the current market value of a position based on the skills, knowledge and behaviors required of a fully competent incumbent. The system used will be objective and non-discriminatory in theory, application and practice. The policies and procedures of the City's pay plan are on file in the Human Resources Department, as well as available through the City's website and employee portal (ePortal). All questions related to compensation must be directed to the Human Resources Department Compensation Division.

## 9.1 Personnel Complement Control

The personnel complement for all Departments comprising City of Chattanooga Government is recommended by the Mayor in the administration's budget proposal and approved and funded by the City Council each fiscal year. Control and maintenance of the authorized complement of all City Departments is the responsibility of the Chief Human Resources Officer and the City Finance Officer.

POLICY

Any request for employment, promotions, lateral transfers, demotions, or other transactions that alter in any way the number of positions by job titles for any Division and its Departments will be checked by the Human Resources Compensation Division against the authorized complement prior to approval or denial of the request by the Chief Human Resources Officer or designee. When an appointing authority desires to adjust the

personnel complement of the Department or its departments or changes in job titles and/or grades, the requesting appointing authority must submit to the Chief Human Resources Officer or designee a Change Request Form. Such requests must include written justification from the requesting appointing authority or designee for the complement change. The request of an appointing authority to adjust the Department complement may be subject to a job evaluation which will be determined by the Chief Human Resources Officer or designee.

## 9.2 Employee Pay

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

1. Final Pay – Employees who separate from City employment shall be paid their wages in full on the next regular payday, not to exceed twenty-one (21) days from the date of separation. In unusual circumstances, a Department Head may make arrangements for earlier payment.
2. Lost Paychecks – Employees are responsible for their paychecks after they have been issued. Checks lost or otherwise missing should be reported immediately to the Payroll Office so that a stop-payment order may be initiated. The Payroll Office shall determine if and when a new check should be issued to replace a lost or missing check. This replacement check may take up to seven (7) days, depending upon the circumstances.
3. Unclaimed Paychecks – Paychecks not claimed by employees within one (1) week of the date issued must be returned by the supervisor to the Payroll Office.

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

## 9.3 Employee Time Records

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

1. Employees are responsible for recording their starting time, quitting time and total hours worked for each work day;
2. Sign in/clock in before employees' normal starting time or to sign out/clock out late after their normal quitting time are not permissible without the prior approval of their supervisor;
3. Employees shall not remove a timesheet/timecards from the designated employee area or leave the premises with said timesheet/time card;

4. Employees given permission by their supervisor to leave their job assignment for any purpose besides City business during work hours must sign/clock out when leaving and sign in upon returning to work, unless otherwise directed by their supervisor in writing;
5. An employee failing to properly sign their timesheet/timecard must have it immediately approved and initialed by a supervisor or Department Head to ensure payment for hours worked; and
6. No unauthorized representative/employee shall mark on another employee's time sheet/timecard. Employees that alter another employees' time sheet/timecard shall be subject to disciplinary action.

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

## 9.4 Reporting Pay

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

## 9.5 Breaks and Lunches

BREAKS

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

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

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

LUNCH PERIOD

Each employee shall have a minimum of a thirty (30) minute unpaid meal period (one hour maximum) if scheduled to work six (6) hours consecutively. The meal period shall not be scheduled within the first or last hour of the scheduled workday or shift, unless specifically

authorized by the immediate supervisor. If an employee needs to request additional time for a lunch period, the employee is encouraged to discuss Flextime options in advance with their supervisor.

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

## 9.6 Payroll Deductions

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

1. Federal Income Tax – Federal taxes are withheld from employees' pay based on the number of dependents claimed by each individual. Supplemental payments are taxed at the twenty-five percent (25%) rate. Employees are required to file with the City a copy of the W-4 form. In the event of changes in the employee's exemption status, a revised W-4 form must be filed before payroll deduction adjustments will be made.
2. State Income Tax – Employees residing outside of Tennessee are encouraged to complete the state income tax withholding for their respective state of residence. This should be completed electronically in the existing City system.
3. Social Security – Social Security payments and deductions will be made according to the Federal Insurance and Compensation Act (FICA). The Finance Department shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.
4. Medicare – Medicare payments and deductions will be made according to federal law. The Finance Department shall keep such records and make reports as may be required by applicable state and federal laws or regulations.
5. Others - Other City authorized deductions will be made from an employee's pay only with the employee's signed consent. The list below is an example of other deductions and is not all inclusive:
    a. Medical/Dental/Vision insurance
    b. Life insurance
    c. Disability insurance
    d. Deferred compensation payments
    e. Supplemental insurance approved by the City
    f. Charity contributions approved by the City

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

## 9.7 Overtime Pay and Compensatory Time

The Human Resources Compensation Division administers overtime and compensatory time pay policies in compliance with the Fair Labor Standards Act (FLSA.), the Compensation Division is responsible for classifying all City of Chattanooga Government positions either exempt or nonexempt.

The FLSA is a federal law that governs the payment of minimum wage, overtime rates, compensatory time, recordkeeping of hours worked, and other criteria relating to wages and hours of work for non-exempt employees, including government employees. Section 3(s)(1)(C) of the FLSA covers all public agency employees of a State, a political subdivision of a State, or an interstate government agency. Exempt employees neither earn compensatory time nor overtime pay and are excluded by the FLSA.

## 9.7A **Overtime Compensation**

Covered, non-exempt employees must be paid overtime at no less than one and one-half (1½) times the employee's regular rate of pay for hours worked in excess of 40 hours in a workweek. Paid Time Off (PTO) counts toward hours worked for the purpose of overtime calculation. Other paid leave types, such as leave of absence, bereavement time, and jury pay do not apply toward work hours. Employees occupying positions solely funded by grants are not eligible for overtime outside of FLSA standards.

Overtime payment principles are different for Firefighters and Police Officers under Section 7(k) of the FLSA:

Firefighters would be entitled to overtime for hours worked over 204 in a 27 days' work period.

Police Officers would be entitled to overtime for hours worked over 80 in a 14 days' work period.

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

## 9.7B **Compensatory Time Off**

If an agreement is made between the City of Chattanooga and the non-exempt employee prior to the performance of overtime duties, employees of state and local government agencies may receive compensatory time off (comp time) at a rate of not less than one and one-half (1½) hours for each overtime hour worked in lieu of cash payment for overtime. However, there are some limitations as to how much comp time may be accrued.

Police, Fire Fighters, emergency response personnel and employees engaged in seasonal activities may accrue up to 480 hours of comp time. However, the 480-hour accrual limit will not apply to office personnel or other civilian employees who may perform public safety activities only in emergency situations, even if they spend substantially all of their time in a particular week in such activities.

Non-exempt civilian employees may accrue up to 240 hours of comp time. Section 7(o)(5) of the FLSA provides that any employee of a public agency who has accrued compensatory time and requested use of this compensatory time, shall be permitted to use such time off within a "reasonable period" after making the request, if such use does not "unduly disrupt" the operations of the agency.

Department Heads can require that compensatory time be used within the same calendar year. The City reserves the right to cash out an employee's compensation time at any point during the employee's tenure.

All questions pertaining to policy explanation related to overtime hours, compensatory time, and/or the Fair Labor Standards Act should be referred to the Human Resources Compensation Division.

### 9.7C **Definitions**

- **Compensatory time off:** paid time off the job which is earned and accrued by an employee in lieu of immediate cash payment for employment in excess of the statutory hours for which overtime compensation is required by section 7 of the FLSA.
- **Public Safety activities:** includes law enforcement, fire-fighting or related activities.
- **Emergency response activities:** includes dispatching of emergency vehicles and personnel, rescue work and ambulance services.
- **Seasonal activity:** includes work during periods of significantly increased demand, which are of the regular and recurring nature.
- **Unduly disrupt:** an unreasonable burden on the agency's ability to provide services of acceptable quality and quantity for the public during the time requested without the use of the employee's services.

### 9.8 **Fill-In Pay for Non-Exempt Employees (Does Not Include Sworn Fire)**

When a non-exempt employee fills in or performs substantially all of the duties in a higher classification level either exempt or non-exempt, a six percent (6%) increase will be applied to the employee's current hourly rate for all hours worked.

### 9.9 **Work Out Of Classification for Exempt Employees**

When exempt employees are temporarily assigned higher level responsibilities to fill a vacancy or for a special assignment for a period greater than 30 days, the employee may receive a temporary pay increase for up to six (6) months. The Department Head must gain approval from the Human Resources Department for additional compensation prior to the employee assuming responsibilities significantly outside the scope of their normal job duties. All temporary salary adjustment requests will be reviewed and evaluated by the HR Compensation Division. and all special assignments must be approved by the Mayor's Office. Department Heads, managers and supervisors are not eligible for additional compensation when performing tasks of subordinates in their department.

Temporary pay will be calculated for employees in the City's General Pay Plan based on the range of the acting capacity position or higher level/salary grade of the duties assumed.

The rate of pay shall be at least the minimum rate of the assumed position range or a six percent (6%) increase of the employee's current salary, whichever is greater.

Temporary pay for employees in the Fire and Police Sworn Pay Plans will be calculated as a monthly stipend, and will be based on the assumed rank salary level.

## 9.10 On-Call Pay

On-call service is necessary for the proper maintenance and operation of certain City services. On-call time is defined by departmental needs as a period of time in which an employee is required to be available to report to work at the City's discretion.

Supervisors must review their employee's on-call circumstances to determine the level of restrictions involved. They must determine:

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

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

Department Heads are responsible for identifying positions that are subject to on-call provisions. Supervisors shall notify employees in advance of on-call status and the length of time expected to be on-call. For designated on-call non-exempt employees, a rate of one hundred and forty dollars ($140.00) per week will be paid. If a non-exempt employee is designated to be on-call for less than seven (7) days, then the rate of twenty dollars ($20.00) per day will be paid. The twenty dollars ($20.00) per day for on-call pay will be in addition to any call-back pay the employee is entitled to receive.

Employees in positions that have been identified as having on-call responsibilities must be able to meet departmental response time requirements when notified to report to work in person. Department-level policy will establish response time expectations based on operational needs. In the absence of department policy, employees in positions with on-call responsibilities must be able to respond to their designated reporting location within sixty (60) minutes or with notification and approval of supervisor of extenuating circumstances. "First Responders" as defined by Tennessee Code Title 8 Chapter 50 Section 107 are not subject to the 60-minute reporting requirement.

Candidates for positions with on-call responsibilities must demonstrate their ability to meet policy requirements as a condition of employment. Failure to demonstrate the ability to meet response time requirements will result in the candidate not being selected, or rescission of an existing employment offer.

For current employees (as of March 2025) in positions with on-call requirements, relocation to a residence that prevents them from meeting department response time

standards may result in position reassignment including potential demotion. Employees considering relocation should consult with their department and Human Resources to ensure that their new residence will allow them to meet established response time expectations.

## 9.11 Call Back Pay

Non-exempt employees who are unexpectedly called back to their office or work area(s) after normal working hours due to an urgent situation shall receive four (4) regular hours of call-back pay in addition to the actual number of hours worked. This call-back pay shall apply whether adequate response can be achieved by telephone or computer and/or if the employee is needed to physically report to work location(s) in person after normal working hours. If an employee returns home after being called for on-call duty, each additional response required from home will trigger four (4) regular hours of call-back pay plus actual hours worked. If an on-call employee is still onsite or in the field and is called to a subsequent urgent situation they receive only the additional actual hours worked.

Compensable time begins when the employee arrives at the designated work site and starts performing job duties; number of hours worked shall not include the time it takes to travel to and from the office or work area.

If an employee's position may require call-back availability in person, employees must be able to meet departmental response-time requirements when called to report in person. Departments will establish response-time expectations based on operational needs, and candidates for positions with call-back responsibilities must demonstrate their ability to meet these requirements as a condition of employment. Failure to meet the required response time will result in the candidate not being selected for the position.

For current employees (as of March 2025) in positions with call-back requirements, relocation to a residence that prevents them from meeting departmental response-time standards may result in position reassignment including potential demotion. Employees considering relocation should consult with their department and Human Resources to verify that their new residence will allow them to meet established response-time expectations.

Non-exempt employees, with the exception of departments/divisions that have regularly scheduled work shifts twenty-four (24) hours each day-seven (7) days a week, who are unexpectedly called back to their office or a work area due to an emergency situation on an official City holiday shall be paid four (4) hours of call-back pay in addition to the actual number of hours worked at the rate of one and one- half (1 ½) times the employees' hourly rate.

Pay for scheduled overtime, and/or the requirement to unexpectedly report to work early or stay late shall not constitute call-back pay.

## 9.12 Longevity Pay

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

## 9.13 **Pay Rates for Changes in Status**

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

1. **Promotion** - When an employee is promoted to a position in a higher salary grade, the rate of pay shall be at least the minimum rate of the new position range and not be lower than the employee's current pay rate.
2. **Demotion** - When an employee is voluntarily or involuntarily demoted to a lower salary grade, the employee's rate of pay may be reduced to a lower rate comparable to other employees performing similar job duties.
3. **Transfer** - When an employee is transferred to the same position that is classified in the same salary grade, they may not receive a pay increase.
4. **Reclassification**: When an employee's position is reclassified to a higher salary grade, the employee shall receive a pay increase. When an employee's position is reclassified to a lower salary grade, the demotion process will follow.

# City of Chattanooga Employee Information Guide

| Policy No. 10.0 | Classification | Page 1 of 3 |
|---|---|---|
| **Policy Sections:**<br>10.1 Employee Classifications<br>10.2 Use of Job Classifications<br>10.3 Use of Classification Plan<br>10.4 Administration of Classification Plan<br>10.5 Requests for Job Evaluation/Re-evaluation | | Effective: 1/31/2023<br>Supersedes: |

## PURPOSE

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

### 10.1 Employee Classifications

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

1. **Regular Full-time Employee** – A regular full-time employee is an employee who works a minimum of thirty (30) hours per week, is paid an hourly or annual rate, is subject to all conditions of employment, and is eligible for all benefits offered by the City.
2. **Regular Part-time Employee** – A regular part-time employee is an employee who works twenty-nine (29) hours or less per week on a regular basis.
3. **Temporary Worker** – A temporary worker is a worker who works assigned hours, not to exceed a period of twelve (12) consecutive months and is paid on an hourly basis. Temporary workers are not eligible to receive benefits.
4. **Appointed Employee** - An employee appointed to a position under the direct supervision of the Mayor, City Council or Department Heads are considered to be in non-classified service and that the persons employed to fill such positions shall be exempt from competitive service requirements.
    a. When persons filling these positions are newly hired upon a change of elected officials or department heads, such persons may be terminated without cause by any newly elected official or appointed department heads, and the Mayor.
    b. If an elected official or department head appoints a person to a position under their direct supervision who is already employed by the City, then upon a change in administration or department head, such person who was already employed by the City will not be terminated without cause, notice and hearing before the City Council as provided by the Charter, but may be

moved to another position in the City government at a salary not less than the salary such person was being paid immediately prior to first being appointed.

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

10.2 **Use of Job Classifications**

Job classifications are a mechanism of communicating goals, objectives, values and expectations between employees and supervisors. The job classifications will contain a general description of the position, essential functions, and additional duties of the job. It should be noted that these elements listed are not entirely inclusive or descriptive of all duties. The job classification shall also contain minimum training and qualifications and the ADA Amendments Act (ADAAA) elements and standards required to perform essential job functions. The minimum qualification standards on job classifications should serve as norms for applicants coming into the job setting and should also serve as a basis for performance indicators in meeting the expectations of the City for each employment position.

10.3 **Use of Classification Plan**

The Classification Plan may be used:

1. As a guide in recruiting and examining candidates for employment;
2. In determining lines of promotion and developing employee training programs;
3. In determining salaries to be paid for various types of work; and
4. In providing uniform job terminology understandable by all City officials and employees and by the general public.

10.4 **Administration of Classification Plan**

In conjunction with the Department Heads and incumbent employees, the Human Resources Department shall be responsible for maintaining accurate job classifications in the Classification Plan that reflect the duties that each employee performs. Employees and their supervisors shall maintain open communications and dialogue to ensure that job classifications are reviewed and updated on an annual basis or as needed.

The Human Resources Department will conduct a review of the entire Classification Plan by examining the nature of the position classes and recommending the appropriate changes in allocations or in the Classification Plan itself. This review will be conducted every three (3) years or when feasible as determined by the Human Resources Department and Administration. Job descriptions will be available on the City's intranet.

Employees may review these specifications online at any time, or they may request a copy from their department or the Human Resources Department.

10.5 **Requests for Job Evaluation/Re-evaluation**

When a new position is established or duties of an existing position substantially change (fifty-one percent (51%) or more higher-level responsibilities and duties), the Department Head shall submit to the Human Resources Department a comprehensive Job Analysis

Questionnaire that describes the duties of the position and the necessary qualifications. Employees who believe their job duties vary substantially from their job description (fifty-one percent (51%) of higher-level responsibility and duty, not to include increased volume or short-term stretch assignments) may request a review and assessment by submitting the request to their direct supervisor. The Human Resources Department, Classification Committee and Mayor's Office, shall review the current and new job duties provided by the Department Head and provide an assessment and recommendation to the Department Head on whether a change in classification is warranted.

The job classification for a new position or a revised job classification for a current position shall be approved by the Human Resources Compensation Division, when required, prior to inclusion in the Classification Plan. Requests for job evaluations can only be submitted once every six (6) months and must show substantial change in duties to be considered. Supervisors shall notify employees who are impacted by reclassification changes at least two (2) weeks prior to the effective date of the change or as soon as feasible.

# City of Chattanooga Employee Information Guide

| Policy No. 11.0 | Employee Benefits | Page 1 of 22 |
|---|---|---|
| **Policy Sections:** | | Effective: 1/31/2023 |
| | | Supersedes: |


11.1 Paid Time Off (PTO)
11.1A Guidelines for PTO Use
11.1B Accrual Schedule
11.1C Carryover of PTO Days
11.1D Buy-Back of PTO
11.1E PTO Payout
11.1F PTO Leave Donation Program
11.2 Holiday Pay
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11.12A Medicare Eligible Retirees and Employees
11.12B Employment After Retirement
11.12C Death of Employee Prior to Retirement
11.13 Tuition Assistance Program (TAP)


## 11.1 Paid Time Off (PTO)

The Paid Time Off (PTO) program is provided to eligible full-time employees and combines vacation, sick days, into one bank. This allows employees flexibility in scheduling time off to meet family needs and balance work and personal life. The design of the PTO program is also intended to assist employees and manage staffing needs in order to meet the operational needs of the City. The time that is not covered by the PTO policy, and for which separate guidelines and policies exist, include paid holidays, bereavement leave, jury duty, and military leave.

## 11.1 A Guidelines for PTO Use

1. Employees will earn PTO, within the accrual period of employment, if they receive pay for a minimum of one-half of the pay period.
2. Employees do not accrue PTO while receiving payments under the Injury on Duty Program or while on an unpaid leave of absence.
3. All employees should provide a twenty-four (24) hour notice to their immediate supervisor of their intention to take PTO, when possible.
4. PTO cannot be taken before it is earned.
5. PTO use and tracking should be in fifteen (15) minute increments.
6. Except in case of disciplinary suspension, accrued PTO must be used before taking unpaid time off.
7. PTO taken for an FMLA qualifying event will run concurrently with FMLA Leave. Employees are required to notify their immediate supervisor of PTO taken for an FMLA qualifying event.
8. PTO is not a leave status. Employees needing extended time away from work must request a leave of absence.
9. An employee requesting time off in excess of fifteen (15) consecutive scheduled workdays must submit the request for approval to the employee's Department Head.

11.1B **Accrual Schedule**

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

ELIGIBLE FULL-TIME EMPLOYEES

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

| YEARS OF SERVICE | Tier 1 (0-10) | Tier 2 (11-17) | Tier 3 (18+) |
|---|---|---|---|
| Hours accrued biweekly | 8.31 | 9.54 | 10.77 |
| Hours accrued annually | 216 | 248 | 280 |
| Day accrued annually | 27 | 31 | 35 |

SWORN POLICE AND DAY-SHIFT FIRE PERSONNEL

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

| Sworn Police/Sworn Fire Day-Shift Personnel | | | |
|---|---|---|---|
| YEARS OF SERVICE | Tier 1 (0-10) | Tier 2 (11-17) | Tier 3 (18+) |
| Hours accrued biweekly | **12** | 13.54 | 14.77 |
| Hours accrued annually | **312** | 352 | 384 |
| Day accrued annually | **39** | 44 | 48 |

SWORN FIRE 24-HOUR SHIFT PERSONNEL

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

| Sworn Fire 24 Hour Shift Personnel | | | |
|---|---|---|---|
| YEARS OF SERVICE | Tier 1 (0-10) | Tier 2 (11-17) | Tier 3 (18+) |
| Hours accrued biweekly | **18.47** | 21.24 | 23.54 |
| Hours accrued annually | **480** | 552 | 612 |
| Day accrued annually | **40** | 46 | 51 |

This calculation of PTO is based upon an equalized pay system of one hundred and twenty (120) hours per bi-weekly pay period. These employees are required to take twelve (12) hours of mandatory PTO every twenty-seven (27) day work period. The PTO accrual and balance will be converted for Sworn Fire personnel who transfer from or to a twenty-four (24) hour schedule and from or to Day shift. Accrual schedules for employees in the Head Start Program are not included in this Section, but can be found in the Head Start Standard Operating Procedures.

### 11.1 C **Carryover of PTO Days**

The PTO year begins on January 1st and ends on December 31st of each year. Employees may carry over ten (10) days of PTO from one leave year to the next leave year in addition to their accumulated PTO days carried over from the previous leave year(s). PTO carryover is subject to the following provisions:

1. Employees may accumulate up to a maximum of one hundred (100) days of PTO during their employment with the City. Employees hired prior to March 27, 1990 may accumulate up to one hundred and fifty (150) days of PTO; and
2. Employees are responsible for monitoring and taking their PTO over the course of a year so that they do not lose time accrued when the current leave year ends.

### 11.1 D **Buy-Back of PTO**

The City may purchase an employee's accrued PTO, but is subject to certain circumstances and conditions which must be agreed to by the employee seeking to sell the PTO. The employee will agree in writing that the cap on the amount of days that the employee is entitled to accumulate over their career will be reduced on a day-for-day basis for the number of days the City is purchasing. The buy-back of PTO is subject to the availability of funds at the time of the request and is determined by the Finance Department.

1. No more than sixty (60) days of PTO may be purchased from any employee during their employment with the City. Each day sold will be paid at seventy percent (70%) of the employee's daily salary.
2. The City will not purchase PTO which would lower the employee's total accumulated balance below thirty (30) days, unless authorized in writing by the Mayor.

Funds realized from the sale of PTO will be excluded from pension eligible earnings and will be treated as earned income.

### 11.1 E **PTO Payout**

When an employee separates from employment, the City will provide a cash payout up to, but not in excess, of their maximum carryover limit of PTO at the time of separation. Unused accrued PTO will be paid based on the employee's rate of pay at the time of separation with the last regular check. Sworn Fire Personnel rate of leave payout is based upon the annual salary divided by 3120, not the same payout rate for overtime. PTO payouts will not count toward employee's credited service for pension purposes under the General Pension Plan and are not subject to deductions made for the General Pension Plan or Fire and Police Pension Fund.

### 11.1 F **PTO Leave Donation Program**

The intent of this program is to provide assistance to employees who have exhausted their accrued PTO as a result of illness, caring for an ill or injured family member or to address a catastrophic casualty loss. The program allows eligible employees to donate accrued PTO to assist eligible co-workers who would otherwise be subjected to a loss of income during

a continuing absence from work. Participation in the Program is entirely voluntary and is open to all employees, who are eligible to accrue PTO, within the City.

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

ELIGIBILITY CRITERIA

In order to donate accrued PTO, an employee must have a minimum balance of two-hundred and forty (240) hours after making the donation (or three-hundred and sixty (360) hours for sworn Fire personnel). Employees may not donate more than one-hundred and sixty (160) hours of leave in a given leave year with the exception of firefighters on twenty-four (24) hour shifts who are allowed to donate a maximum of two hundred forty (240) hours annually.

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

All accrued PTO and earned compensatory leave must have been exhausted before donated leave can be used. An employee may apply for donations prior to exhausting their leave but must have less than eighty (80) hours accrued. Employees must be on approved continuous leave to be eligible to receive donated leave. An eligible recipient may receive up to six (6) months of leave donation in a three (3) year period. Pay received from donated leave will be treated as earned income, but not applicable as pension eligible earnings.

EFFECT ON FAMILY AND MEDICAL LEAVE (FMLA) AND TENNESSEE MATERNITY LEAVE (TMLA)

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

PROCEDURES

**Donations**: An eligible employee may apply to donate PTO by completing the Request to Donate Leave Form and submitting it to their Department Head. The Department Head or designee may review and approve the donation and will forward the form to Human Resources for processing. The Chief Human Resources Officer or designee will review the request for approval. Upon final approval, the donor's accrued PTO balance will be reduced based on the amount donated.

**Recipients**: An eligible employee who wishes to receive PTO donation from another employee may complete the Request to Receive Donated Leave Form and submit it to the

Department Head or designee for review. The approval form is routed to Human Resources for final approval and processing.

The recipient must be on continuous approved leave in a formal leave status for a specified period of time and may not open- ended. The department head or designee must verify that the employee has exhausted all PTO before utilizing the donated leave. Upon Human Resources' approval, the donated PTO will be credited to the recipient for processing in the next payroll period. The leave donated will be credited to the recipient in the dollar value equivalent, based on the donor's rate of pay.

If an employee is in an emergent situation where long-term care (hospitalization) is warranted and the employee is incapacitated, a supervisor can request PTO donations for the employee for the time they are in an approved leave status.

11.2 **Holiday Pay**

The following days are recognized and observed as paid holidays for all regular full-time, part-time and grant-funded employees, including those in their initial probationary period:

| PAID HOLIDAY SCHEDULE | | |
|---|---|---|
| 1 | New Year's Day | January 1 |
| 2 | Martin Luther King's Birthday | Third Monday in January |
| 3 | Good Friday | Friday preceding Easter Sunday |
| 4 | Memorial Day | Last Monday in May |
| 5 | Juneteenth Independence Day | June 19 |
| 6 | Independence Day | July 4 |
| 7 | Labor Day | First Monday in September |
| 8 | Veteran's Day | November 11 |
| 9 | Thanksgiving Day | Fourth Thursday in November |
| 10 | Friday After Thanksgiving | Friday after Thanksgiving |
| 11 | Christmas Eve | December 24 |
| 12 | Christmas Day | December 25 |

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

**NOTE: contingent (temporary) workers are ineligible for the benefits of this policy.**

A non-exempt, non-sworn employee will be paid at one and one-half (1-1/2) times the employee's regular hourly rate when[1]:

1. Scheduled or required to work on a holiday.
2. Required to work additional hours and/or days beyond or in addition to the regular work schedule during a holiday week.

In accordance with their Department rules and regulations, employees shall receive either a day off to be scheduled later by mutual agreement between the Department and the employee; or the employee shall be paid additional hours based on the regularly scheduled hours for having worked the holiday if:

- The employee is assigned to work any given holiday.
- The holiday falls on an employee's regular day off.

Holidays that occur while an employee is on vacation or approved medical leave, their leave time shall be charged as holiday pay.

Employees who need time off to observe religious practices or holidays not already scheduled by the City should discuss with their supervisor. Depending upon business needs, the employee may be able to work on a day that is normally observed as a holiday and then take time off for another religious day.

## 11.3 Health Insurance Benefits

Benefits may include medical, dental, vision, voluntary, and flexible options. As of July 1, 2022, Employees are eligible for coverage on the first day of the month following the date of hire. Dependents that may be covered include a legal spouse and children up to age 26. Supporting documentation is required before benefits can begin.

Each plan year begins on the first of July (July 1) with the open enrollment period occurring in the month of May prior to the new plan year. Health plan options, benefit designs, eligibility rules, and premiums are subject to change each plan year. Informational meetings and other communications are available during the open enrollment period.

The Benefit plans offered by the City allow employees to pay their health insurance premiums on a pre-tax basis. When employees enroll in medical, dental, or vision insurance, the premiums are deducted from payroll checks before taxes according to IRS Section 125.

Employees may elect to establish a flexible spending account to pay for out-of-pocket expenses related to medical, dental, and vision care on a pre-tax basis. Similarly, an employee may establish an account to pay for dependent care expenses. Employees make deposits to the accounts through a tax-free salary deduction. Expenses are reimbursed for incurred eligible medical and/or dependent care through a claims process. Flexible spending arrangements are governed by the IRS and are subject to IRS regulations.

[1] See examples off a holiday week paycheck (Appendix I)

For more in-depth information regarding the offered benefits, please see the Summary Plan Description.

### 11.3A Qualifying Events for Changes to Coverage

It is the employee's responsibility to notify the City if a significant qualifying event occurs that may result in a change in coverage. Employees must notify the City within thirty-one (31) days of experiencing a qualifying event and submit supporting documentation to be eligible to change coverage. Some events allow the employee to make changes to benefits including adding or dropping dependents, adding coverage or terminating coverage.

To make a change in pre-tax deductions that are allocated under Section 125, employees must have a qualifying event. Under the Internal Revenue Service rules, employees may change their health insurance deductions (elections) during the year only after one of the following qualifying events:

1. The employee has a change in family status (e.g., marriage, divorce, birth, death, legal separation, dependent child attaining the maximum age of coverage);
2. The employee's spouse loses coverage due to termination of employment;
3. The employee terminates employment or retires with the City;
4. The employee's spouse has a change in employment status which results in either acquiring or losing eligibility for health insurance coverage;
5. The employee receives a divorce/legal separation and are required under a court order to provide health insurance coverage for their eligible dependent children and/or legally separated spouse;
6. There is a significant change in the employee's or their spouse's health coverage which is attributable to the spouse's employment; or
7. Other reasons consistent with Federal Law such as Healthcare Reform.

Changes in pre-tax health insurance deductions that stem from any of these qualifying events must be made within thirty-one (31) days of the event.

### 11.3 B COBRA

The Consolidated Omnibus Budget Reconciliation Act (COBRA) provides the opportunity for eligible employees and their beneficiaries to continue health insurance coverage under the City's health plan when a "qualifying event" could result in the loss of eligibility. Qualifying events include resignation, termination of employment, death of an employee, reduction in hours, a leave of absence, divorce or legal separation, entitlement to Medicare, or where a dependent child no longer meets eligibility requirements.

### 11.4 Life Insurance

The City provides group life insurance to employees who are classified as Regular Full Time and Elected. Coverage is effective on the first day of the month following thirty (30) days of continuous employment with the City.

Eligible employees receive insurance equal to their annual base salary rounded up to the next one thousand dollars ($1,000) to a maximum of fifty-thousand dollars ($50,000). The

coverage includes accidental death and dismemberment coverage (AD&D) in an equal amount.

### 11.5 Long-Term Disability

Long Term Disability provides a financial benefit in the event of a total and permanent disability. The plan offered by the City, at no cost to the employees, is designed to provide an income of approximately sixty (60%) percent of the amount of pre-disability earnings.

Employees who participate in the General Pension Plan are eligible for coverage after six (6) months of continuous employment. The Long Term Disability policy is designed to provide benefits for disabilities arising from injuries or from conditions that may or may not be job related where the employee can no longer perform the functions of their job. Payment for an approved disability may begin on the first day of the month following six months of total and continuous disability. The summary plan description provides more information about policy provisions, the determination of benefit payment and the schedule of maximum durations of benefit. The amount of benefit is determined by several factors; however, for an approved disability, the payment will never be less than one-hundred dollars ($100) per month and will not exceed five-thousand dollars ($5,000) per month.

Employees who participate in the Fire and Police Pension Plan have access to long term disability benefits through that pension plan. Benefits are payable for disabilities arising from job related and non-job-related causes. The amount of benefit varies based upon type of disability, earnings and years of service. Contact the Plan Administrator to determine the details of the coverage provided.

### 11.6 Short-Term Disability

The City makes available to each employee eligible for benefits the opportunity to voluntarily participate in a short-term disability plan. The plan provides benefit payments in the event of nonoccupational disability. During the enrollment period, the employee participant will elect either a fifty percent (50%) or seventy percent (70%) income replacement. Benefit payments will not exceed two-thousand dollars ($2,000) per week. Disability payments for an approved disability due to illness or injury will begin on the fifteenth (15th) consecutive missed workday for up to twenty-four (24) weeks of total disability.

The opportunity to enroll is provided at the time of hire and at open enrollment once per year. At the time of hire, employees are eligible to enroll in short term disability without submitting evidence of insurability. Otherwise, at open enrollment, new enrollees and participants increasing their coverage will be required to submit evidence of insurability. If the employee is not actively at work on the day coverage is scheduled to begin, coverage will begin on the day the employee returns to work and is considered actively employed.

### 11.7 Retaining Health Insurance During a Disability

Employees that have health insurance benefits and qualify to receive disability benefits under a disability insurance program offered by the City may continue to be covered by the health insurance while receiving disability benefits. Disabilities can be characterized as either short-term, long-term job-related, or long-term not job-related. The health insurance may be continued prior to retirement through payment of premiums.

If an employee is approved for short-term disability benefits, the payroll deduction premiums for the health insurance coverage and all enrolled benefits, except for short term disability coverage, must be paid to the City when due. The employee is responsible for paying all premiums due during the period of disability. Once the disability ceases and the employee has returned to work, the payroll deduction for these premiums will resume.

If an employee terminates employment due to a job-related disability, they may elect to continue health care coverage. The premium rate for the post-employment health insurance coverage will be the same as the rate charged to retirees with twenty-five (25) or more years of service for the coverage election. Premiums for the health insurance coverage must be paid to the City when due. Non-payment of premium will result in termination of coverage. At the time the long-term disability benefits terminate, the health insurance coverage will also terminate. If the employee is subsequently rehired by the City, the employee will qualify for health insurance coverage as a new employee with the City.

If the employment is terminated due to a non-job-related disability, the employee may continue health care coverage if the employee has attained ten (10) or more years of service at the time of termination of employment. The premium rate for the post-employment health insurance coverage will be the same as the rate charged to retirees for the actual years of service for the coverage election. Premiums for the health insurance coverage must be paid to the City when due. Nonpayment of premium will result in termination of coverage. At the time the long-term disability benefits terminate, the health insurance coverage will also terminate. If the employee is subsequently rehired by the City, the employee will qualify for health insurance coverage as a new employee with the City.

For both job-related and non-job-related long-term disabilities, health insurance coverage may be continued after termination of disability benefits only if the individual qualifies to receive health benefits in retirement as detailed in the Retiree Health Benefits Section B that follows.

### 11.8 **Wellness Program**

The City's wellness program focuses on promoting the physical and mental wellness of employees, retirees and their families. The program includes a fitness center, an onsite pharmacy and an onsite healthcare center. The City may offer one or more wellness incentive programs. For more specific information about these programs, please refer to the most recent Employee Benefits Guide.

### 11.8 A **Healthcare Center**

City employees, retirees and their dependents ages two (2) and older that are covered by the City's health insurance may utilize the healthcare center.

The healthcare center provides services similar to the care provided by a primary care physician at no cost. The center focuses on health and wellness by providing health assessments, health coaching, and programs to address health risks such as weight loss, smoking cessation and physical activity plans. All personal health information maintained at the center is protected and maintained in a HIPAA compliant manner. Health information will not be shared.

### 11.8 B **Pharmacy**

City employees, retirees and their dependents that are covered by the City's health insurance may utilize the pharmacy for prescribed medications. The over-the-counter medications and other products are available for sale to all City patrons. Prescriptions from a current pharmacy may be transferred to the onsite pharmacy. Medications prescribed by the physician at the onsite healthcare center may be filled at the onsite pharmacy.

### 11.8 C **Fitness Center**

All full-time employees, elected officials, pension eligible employees, and retirees, regardless of insurance coverage, may utilize the fitness center. Dependents of an employee that are age eighteen (18) and older and are covered by the City's health insurance plan may use the fitness center. Dependents of an employee that are ages thirteen through seventeen (13-17) and are covered by the City's health insurance may use the center only if accompanied by a parent.

Before using the facility, it is necessary to attend a Fitness Center Orientation to review the equipment, guidelines for use and safety considerations.

### 11.9 **Employee Assistance Program (EAP)**

The employee assistance program (EAP) is designed to help all regular full-time and elected City employees and their family members cope with problems before they become unmanageable. The EAP provides employees and their household members with confidential access to assistance and resources online twenty-four (24) hours per day, seven (7) days per week. The EAP provides short term counseling and support on many issues including depression, grief, legal issues, alcohol/drug abuse, financial pressures, identity theft, stress, anxiety, and many more.

There is no cost for an employee to consult with an EAP counselor. If further counseling is necessary, the EAP counselor will outline community and private services available. The counselor will also let employees know whether any costs associated with private services may be covered by their health insurance plan. Costs that are not covered are the responsibility of the employee.

Information about the program is provided through various communication methods. Contact the Employee Benefits Guide or Human Resources for vendor phone number or access information.

Employees may receive Employee Assistance Program services through any of the following routes:

**Self-Referral** occurs when an employee contacts the EAP staff directly. Appointments for a self-referral will be made on the employee's own time, and confidentiality will be maintained to the extent provided by law. Managers, employee representatives, and co-workers are encouraged to suggest that troubled employees refer themselves to the Employee Assistance Program.

**Management Referral** may occur when an employee demonstrates poor job performance, attendance problems, unacceptable conduct or other policy violations. The management referral to the Employee Assistance Program does not replace the City's established disciplinary procedure or the manager's responsibility to address such problems when they occur. It is intended, however, to allow the employee an opportunity to seek help for problems that may be contributing to the workplace problems.

The following steps will be taken by the referring manager:

1. Contact the Human Resources Department and provide detailed information regarding the reason for and circumstances leading up to the management referral.
2. Inform the employee that you are making a referral to the Employee Assistance Program; complete the management referral form and give the employee a copy. File a copy of the form in the employee's file.
3. Inform the employee that they must be seen by the EAP Counselor as soon as possible, but within seven (7) calendar days at the latest.
4. Call the EAP Office and report the referral. Forward a copy of the Management Referral form to the EAP Counselor.
5. The EAP Counselor will, at the initial meeting, execute an EAP Participation Agreement and thereafter report compliance or noncompliance with the agreement to the referring manager and/or the EAP Coordinator. Failure to comply with the EAP Participation Agreement will result in discharge from Employee Assistance Program services. With the exception of referrals for drug/alcohol abuse, subsequent disciplinary action shall result from continued workplace problems not from failure to comply. However, in cases involving drug use or alcohol misuse, failure to comply and to satisfactorily complete the prescribed program as directed shall constitute gross insubordination resulting in appropriate disciplinary action up to and including termination.

### 11.9 A **Confidentiality**

Diagnosis, treatment details, and other personal information will comprise the EAP record. Confidentiality will be maintained to the fullest extent provided by law. If an employee is subject to fit-for-duty exam, disciplinary charges or is involved in appealing disciplinary action related to 128 drug/alcohol problems, the employee's EAP records shall be made available to City officials who have a legitimate need to know.

### 11.9 B **Limitations of EAP**

If an eligible employee or dependent is found to need treatment outside the scope of services provided by the Employee Assistance Program, proper referral will be made and coverage will be provided under established limits of the City of Chattanooga health plans.

The City is not liable for payment for such services if the employee or dependent is not covered by the City's health plans.

## 11.10 **HIPAA**

The purpose of this policy is to inform employees of the City's administrative duties compliant with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and to outline the procedures entailed with managing protected health information.

MANAGING PROTECTED HEALTH INFORMATION

For the purposes of HIPAA, "health information" means information that identifies you and either relates to your physical or mental health condition, or relates to the payment of your health care expenses. The individually identifiable health information is known as "protected health information" ("PHI").

Any person not authorized to handle PHI should not receive or process such information unless approved by the individual and Human Resources. If an employee approaches a non-authorized person regarding PHI, the non-authorized person shall cease the conversation and direct the employee to an authorized representative.

Health-related information that is not considered protected health information defined by HIPAA law are employment records created by an employer in its employment capacity, as opposed to its health plan capacity. These include, but are not limited to, employment records that contain information created for the purpose of processing family medical leave requests, drug screen programs, fitness-for-duty exams, workers' compensation, OSHA regulations, disability compliance, and education records covered by the Family Educational Rights and Privacy Act.

The City shall ensure separate treatment of PHI from other administrative functions, such as employee compensation and discipline.

The City shall take reasonable measures to limit the disclosure of PHI to the minimum amount necessary to accomplish the intended purpose of the disclosure.

If you believe that your privacy rights have been violated, you may file a complaint to:

City of Chattanooga Chief Human Resources Officer
101 E. 11th Street, Suite 201
Chattanooga, TN 37402
(423) 643-7200

A thorough investigation will be conducted upon receiving the complaint. Prompt reporting will assist the City in maintaining compliance with HIPAA law. The City will keep the complaint confidential to the maximum extent possible, but effective investigation of allegations may involve disclosure to the accused individual and to other witnesses in order to gather all of the facts. The City will take appropriate remedial measures against violators

of this policy, including termination, if an investigation establishes that corrective action is warranted. Retaliation in any form against an employee who makes a complaint is strictly prohibited.

## 11.11 Retirement Benefits

The City provides both mandatory and optional methods of planning for retirement. Full time and certain part time civilian employees are required to participate in the General Pension Plan. All fully sworn employees of the Fire and Police Departments are required to participate in the Fire and Police Pension Plan.

### 11.11 A General Pension Plan

The General Pension Plan, a defined benefit plan, requires participants to contribute two percent (2%) of pensionable earnings each month toward a defined benefit program. The City contributes the remaining amount that is necessary to fund the benefits based on actuarial review and funding requirements. At orientation, each new employee will receive a General Pension Plan booklet describing the features of the plan, including vesting requirements and benefit calculation methods.

The benefits payable are determined by formula based on a combination of age, final average earnings, and service credits of the employee.

The employee is vested in the plan after sixty (60) service credits have been earned during a period of continuous employment. One service credit is earned for each month the employee works; no credits are earned in periods when the employee is on any kind of leave without pay. If an employee is terminated or resigns prior to vesting in the plan, a refund of employee contributions will be issued and all service credits will be lost.

If the contributions are withdrawn by the employee, there is no benefit payable at retirement. The earnings, contributions, and service credits are recorded for each participant and a summary is available on an annual basis. Once vested, a participant may request a projection of their future benefit based on credited service earned to date.

A participant who reaches one of the following milestones may retire. A participant may continue to defer the retirement date and continue working.

1. Normal retirement at age sixty-two (62) with full benefits.
2. Immediate Early retirement beginning at age fifty-five (55) up to normal retirement age with a reduced benefit. The benefit reduction factor is two and one-half percent (2.5%) for each full year prior to age sixty-two (62). The early retirement benefit at age fifty- five (55) is eighty-two and one-half percent (82.5%) of the full benefit at age sixty-two (62).
3. ‘Rule of 80’ retirement allows the participant to retire with no reduction in benefits before age sixty-two (62) if the sum of age and years of credited service is eighty (80) or more at the time of retirement.

The Basic Life Annuity available at retirement is a straight life annuity. The benefit payment is payable monthly for the lifetime of the participant. Five alternative lifetime

payment options for the participant are currently offered to provide payments to a beneficiary or contingent annuitant upon the death of the participant. If the participant has twenty-six (26) or more years of service, the participant has the option of electing a Deferred Retirement Option Plan (DROP) payment. It is an optional form of payment that provides a lump sum amount that may be taken in cash or transferred into a tax deferred account and a reduced amount of annuity payment. Lump sum amounts taken in cash are immediately taxed at twenty percent (20%) according to IRS rules. Lump sum amounts transferred into a tax deferred account are taxed only when a withdrawal is made. Please reference the Plan booklet for more information about the DROP and how benefit payments are determined.

If a participant terminates from service with sixty (60) or more service credits before meeting the eligibility age to retire, the participant is considered vested and may commence benefits when eligible at a future date based on their earnings and service record. A vested participant may remain vested, but also has the option to withdraw the contributions made either as a lump sum or as a transfer to another tax qualified plan or employer's plan. If contributions to the plan are withdrawn, the City has no further liability for benefits.

The General Pension Plan is administered by Board of Trustees appointed by the Mayor. The assets of the plan are invested in a variety of funds or instruments by a number of investment managers. First Tennessee Bank oversees the fund transactions and ensures that the benefits are paid when due to the retirees.

11.11B **Fire and Police Pension Plan**

The Chattanooga Fire & Police Pension Fund (CFPPF) was established in 1949 as a defined benefit plan to provide Police Officers and Firefighters with a secure, pre-defined monthly benefit upon retirement. The Fund also provides a safeguard for the immediate family in the event the Firefighter or Police Officer becomes disabled or dies.

The CFPPF receives contributions or funding from multiple sources:

- Members annually contribute a percentage of their base salary.
- City contributes the amount recommended by the actuary but no less than ten percent (10%) of the gross salaries of the Fire and Police Departments.
- Revenue from investments accounts for more than seventy percent (70%) of the Fund's growth.
- Five dollars ($5.00) from every City Court fee paid.
- Revenue generated by the sale of surplus property.

Payments to members are calculated based on a formula that takes into account years of service, earnings, and benefit levels referred to as Series. Please refer to the Summary Plan Description or contact the Pension Fund Office for more detailed information.

To be vested in the Pension Plan, members must have at least ten (10) years of pension credit service. Members who terminate service prior to vesting will receive a refund of their employee contributions to the Fund, without interest.

Members who earn more than twenty-five (25) years of pension credit service can elect a Deferred Retirement Option Plan (DROP) benefit upon retirement. The DROP is an optional form of an earned benefit that allows participants to receive a portion of their accrued retirement benefit earned during the DROP period as a lump sum withdrawal, in exchange for working longer than twenty five (25) years. If the member declines the option to take the DROP benefit, the pension benefit is based on the total years of service rather than the monthly benefit that has been reduced for the DROP; typically twenty-five (25) years of service. Please refer to the Summary Plan Description for more information about the DROP, eligibility and how payments are determined.

The CFPPF is governed by an eight-person Board: three active Firefighters, three active Police Officers, a City general employee appointed by the Mayor and a resident appointed by the City Council.

For additional information regarding Chattanooga Fire and Police Pension Fund, please contact the Fund office at (423) 893-0500 or **info@cfppf.org** with any questions. You may also refer to the Fund website at **www.cfppf.org**.

### 11.11 C **Deferred Compensation Program**

The City of Chattanooga also offers to all employees the opportunity to invest a portion of their earnings through payroll deduction into a deferred compensation plan for governments and municipalities, also known as a 457 plan. Contributions are made before tax and remain in a tax deferred status until withdrawals are made at the time of retirement. Employees currently have the choice of four (4) providers including MassMutual (The Hartford), Nationwide, VOYA (ING) and ICMA. Typical deferred compensation plans have the following features:

- On-site enrollment meetings at least annually.
- Individual retirement education sessions with a local representative.
- Educational materials for participants at all stages of the retirement planning.
- Quarterly Statements of Account and informative newsletters. Material is usually made available online but some material may be provided by mail.
- Toll-free customer service number with transactional capability.
- A wide variety of investment choices professionally managed by some of the best-known money managers in the industry and spanning the risk/reward spectrum.
- A variety of withdrawal options at retirement.

For further information about deferred compensation plans, please contact the Finance Department for plan booklets and the contact information for the plan's representatives.

## 11.12 Retiree Health Benefits

If eligibility criteria are met, retirees may continue healthcare benefit coverage into retirement, including dental coverage, providing that they were enrolled in these benefit programs immediately prior to retirement. The opportunity to continue healthcare benefits will be offered on a one-time basis to eligible terminating vested or retiring employees. The election to continue healthcare benefits after employment terminates must be filed in writing by the end of the last day of regular employment.

Eligibility for continuing healthcare benefits will be determined at the time of separation from service. The employee who is separating from service must be currently enrolled in the healthcare benefit program to be eligible for continuation of benefits at the time of separation. To be eligible, the employee must:

1. Have at least twenty-five (25) years of service; or
2. Have attained age sixty- two (62) and have ten (10) or more consecutive years of continuous service immediately prior to termination.

If the age and/or service criteria were met as of July 1, 2010, or for firefighters or police officers hired on or before March 31, 1986, then the employee will qualify to continue healthcare benefits during their lifetime. If the age and/or service criteria were met after July 1, 2010, the employee will qualify to continue healthcare benefits only until Medicare eligibility is achieved. The covered spouses of eligible retirees may continue to receive medical benefits until they become eligible for Medicare or to age 65, whichever occurs first, and covered dependent children may continue to receive medical benefits as long as they remain eligible under the terms of the insurance plan in effect.

The medical coverage offered until a retiree reaches Medicare eligibility is the same coverage offered to active employees. The premium for this coverage is determined based on the effective date of retirement or separation. The premium charged for post-retirement benefits is one and one-half times the premium rate payable by active employees. For those employees who are eligible to continue coverage for their lifetime, coverage options change upon reaching Medicare eligibility. At that time, a Medicare Advantage plan is offered to more efficiently provide benefits in conjunction with Medicare.

Premiums for the elected coverage will be paid as a deduction from the retiree's monthly pension payment. If the retiree's monthly pension benefit is not sufficient to cover premiums after income tax withholding, premium payment may be made in advance to the City when due on a monthly basis. The monthly premium due will be determined based on the number of years of service, the benefit plan selected, and any other criterion in effect that requires a rate variation to be recognized. Because the City is a self-insured entity, these rates will be changed annually at the time of the open enrollment period to reflect the total cost of the benefits to the City.

## 11.12A Medicare Eligible Retirees and Employees

The City requires every Medicare eligible retiree or employee to apply for all Medicare benefits available, including, but not limited to Part A, Part B and any prescription drug benefits that may become available, when eligible to do so. The Medicare coverage

requirement and the health insurance coverage offered by the City are both coverage providers and 'payers'. 'Coordination of benefits' rules will be applied to determine which payer pays claims first. The healthcare benefits provided by the City to a regular employee or retiree, and any healthcare benefits provided to the spouse of an employee or retiree will be paid according to the payer order determined by these rules. These rules will be applied regardless of whether the former employee and/or spouse apply for Medicare coverage.

Failure to apply for all appropriate Medicare coverage when eligible will result in termination of post-retirement health care benefits.

11.12B **Employment After Retirement**

When healthcare coverage is available through an employer after retirement from the City, the retired employee and the dependent spouse, if any, must purchase that coverage and the order of claims payment determination will be according to the following rules. Failure to apply for healthcare coverage through an employer when available will result in termination of postretirement health care benefits.

1. If a retired employee is employed elsewhere after retirement and is eligible for healthcare benefits through the current employer, then the City post-retirement healthcare benefits will be considered secondary coverage to the coverage provided by the current employer.
2. If the retired employee's covered spouse is employed and eligible for healthcare benefits through the employer, then the spouse's healthcare plan will be treated as the primary coverage and the City post-retirement healthcare benefits will be treated as the secondary coverage.
3. If the covered spouse of a retired employee has family healthcare benefits, then that coverage will be considered primary for the spouse and covered dependents.

11.12 C **Death of Employee Prior to Retirement**

In the event of death of an employee eligible to retire with health insurance benefits who has not yet retired, the spouse and any children covered under the medical insurance plan at the time of death may continue the healthcare benefits in which they were enrolled, including dental insurance benefits, at the time of the employee's death at the same premium rate that would have been available had the deceased employee retired immediately prior to death.

The right to continue healthcare benefits will terminate upon the remarriage of the covered spouse or when the age of covered children no longer meets the plan's eligibility requirement.

In the event of death of the covered spouse, the surviving covered children may continue healthcare benefits until their age no longer meets the plan's eligibility requirement.

If the deceased employee was not eligible to retire with health insurance benefits at the time of death, the spouse and covered children of the deceased employee will continue to be covered to the end of the month following the month of death of the employee.

When an employee is killed in the line of duty or dies as a result of a service-connected disability or disease, the surviving spouse and covered children may elect to continue healthcare benefits at the same premium rate as that of a retiree with twenty-five (25) years of service by making application within thirty-one (31) days of the date of death.

### 11.13 Tuition Assistance Program (TAP)

The City has established a tuition assistance program to help eligible employees develop their skills and upgrade their performance. All permanent full-time employees who have completed a minimum of one (1) year of service are eligible to apply for tuition assistance.

The program provides tuition assistance for courses offered by City-approved institutions of learning, such as accredited colleges, universities, and secretarial or trade schools. Tuition assistance is also available for employees enrolled in courses leading to a GED high school equivalency diploma or special reading and writing programs where it can be demonstrated that such courses will improve the employee's job performance. Courses must be directly or reasonably related to the employee's present job or to a position into which the employee reasonably could progress. Courses must not interfere with the employee's job responsibilities and must be taken on the employee's own time.

Employees eligible for reimbursement from any other source, (e.g., a government-sponsored program or a scholarship) may seek tuition assistance only for costs not covered by the outside funding source.

Prior to enrollment, it is recommended that the employee discuss their education plans with the immediate supervisor, division head or Department Head. Employees should receive approval from the Department Head or designee that the proposed course is consistent with the criteria for approval.

The employee is expected to make their own arrangements for taking courses and any documented unsatisfactory job performance during enrollment could result in the employee forfeiting tuition assistance.

The employee must apply for and receive approval from the Department Head for tuition assistance for each new semester, quarter or term and prior to the beginning of the semester, quarter or term. Following approval of the application by the Department Head, a copy of the signed form should be given to the employee, a copy retained by the Department Head and the original sent to the Human Resource Department.

Tuition assistance amounts will be limited to one-thousand dollars ($1,000) per calendar year per employee. The employee is responsible for verifying tuition costs prior to submitting a request for tuition assistance. Assistance is for actual costs of tuition and registration fees only.

The employee must submit an official transcript showing that they received a grade of "C" or better for each course taken on a for-grade basis. Tuition Assistance will not be provided

for grades of lower than a “C” or a Fail on a Pass/Fail basis. The employee must also submit an original receipt for tuition payment to the division head. Photocopies of the transcript will be made for the Department Head and Human Resources. The original transcript should be returned to the employee. The Department Head will approve reimbursement and authorize payment.

Tuition Assistance is not available to employees during a leave of absence. If the employee leaves the City while attending school or within one year of completing courses for which the City has paid, the City’s share of the costs in the twelve (12) months preceding termination will be deducted from the final payment of salary, wages, bonuses, or accrued personal leave. If the amount of the final payment is not sufficient to cover the outstanding cost, the individual will be required to reimburse the City for the amount due at the time of termination.

# Appendix I - Examples of Holiday Pay

Figures a - c below are examples of a paycheck with different scenarios based on an employee's work schedule for the holiday week.

### *Example of Check – Working the Holiday*

| Day | Date | Regular Hours | Overtime /Premium | Holiday | Total |
|---|---|---|---|---|---|
| **Friday** | 06/28/2019 | 8.00 | | | 8.00 |
| **Saturday** | 06/29/2019 | | | | |
| **Sunday** | 06/30/2019 | | | | |
| **Monday** | 07/01/2019 | 8.00 | | | 8.00 |
| **Tuesday** | 07/02/2019 | 11.00 | | | 11.00 |
| **Wednesday** | 07/03/2019 | 5.00 | 5.00 | | 10.00 |
| **Thursday** | 07/04/2019 | | 10.50 | 8.00 | 18.50 |
| **Total hours** | | 32.00 | 15.50 | 8.00 | 55.50 |
| **Rate per hour** | | $ 10.00 | $ 15.00 | $ 10.00 | |
| **Total pay** | | **$ 320.00** | **$ 232.50** | **$ 80.00** | **$ 632.50** |

Figure a

### *Example of Check – Not working the holiday, but experienced a change from the normal work schedule.*

| Day | Date | Regular Hours | Overtime /Premium | Holiday | Total |
|---|---|---|---|---|---|
| **Friday** | 06/28/2019 | 8.00 | | | 8.00 |
| **Saturday** | 06/29/2019 | | 6.00 | | 6.00 |
| **Sunday** | 06/30/2019 | | | | |
| **Monday** | 07/01/2019 | 8.00 | | | 8.00 |
| **Tuesday** | 07/02/2019 | 10.00 | 1.00 | | 11.00 |
| **Wednesday** | 07/03/2019 | | 8.00 | | 8.00 |
| **Thursday** | 07/04/2019 | | | 8.00 | 8.00 |
| **Total hours** | | 26.00 | 15.00 | 8.00 | 49.00 |
| **Rate per hour** | | $ 10.00 | $ 15.00 | 10.00 | |
| **Total pay** | | **$ 260.00** | **$ 225.00** | **$ 80.00** | **$ 565.00** |

Figure b

***Example of Check – Not working the holiday and NO change in work schedule.***

| Day | Date | Regular Hours | Overtime /Premium | Holiday | Total |
|---|---|---|---|---|---|
| **Friday** | 06/28/2019 | 8.00 | | | 8.00 |
| **Saturday** | 06/29/2019 | | | | |
| **Sunday** | 06/30/2019 | | | | |
| **Monday** | 07/01/2019 | 8.00 | | | 8.00 |
| **Tuesday** | 07/02/2019 | 8.00 | | | 8.00 |
| **Wednesday** | 07/03/2019 | 8.00 | | | 8.00 |
| **Thursday** | 07/04/2019 | | | 8.00 | 8.00 |
| **Total hours** | | 32.00 | | 8.00 | 40.00 |
| **Rate per hour** | | $ 10.00 | $ 15.00 | $ 10.00 | |
| **Total pay** | | **$ 320.00** | **$ -** | **$ 80.00** | **$ 400.00** |

Figure c

# City of Chattanooga Employee Information Guide

| Policy No. 12.0 | Leave Policies | Page 1 of 13 |
|---|---|---|
| **Policy Sections:** | | Effective: 5/13/2025<br>Supersedes: 1/31/2023 |


12.1 Family and Medical Leave (FMLA)
12.1A Key Policy Definitions
12.1B Notice and Leave Request Process
12.1C Certification and Fitness for Duty Requirements
12.1D Scheduling Leave and Temporary Transfers
12.1E Leave Increments
12.1F Health Insurance
12.1G Paid Leave Utilization During FMLA Leave
12.1H Return to Work
12.1I General Provisions
12.1J FMLA Leave Conditions When Both Spouses are City Employees
12.2 Leave Donation Program
12.3 Extended Medical Leave Policy
12.4 Tennessee Maternity Leave Act (TMLA)
12.5 Military Leave
12.6 Court Leave
12.7 Voting Leave
12.8 Administrative Leave
12.9 Leave of Absence (LOA)
12.10 Bereavement Leave
12.11 Leave Records


## PURPOSE

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

### 12.1 Family and Medical Leave (FMLA)

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

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

- **Parental Leave**: For the birth or placement of an adopted or foster child;
- **Personal Medical Leave**: When an employee is unable to work due to their own serious Health Condition;

- **Family Care Leave**: To care for a spouse, child, or parent with a Serious Health Condition;
- **Military Exigency Leave**: When an employee's spouse, parent, son or daughter (of any age) experiences a Qualifying Exigency resulting from military service (applied to active service members deployed to a foreign country, National Guard and Reservists); and,
- **Military Care Leave**: To care for an employee's spouse, parent, son, daughter (of any age) or next of kin who requires care due to an injury or illness incurred while on active duty or was exacerbated while on active duty.

NOTE: A leave of up to 26 weeks of leave per twelve-month period may be taken to care for the injured/ill service member.

12.1A **Key Policy Definitions**

1. "Eligible Employees" under this policy are those who have been employed by the City for at least twelve (12) months (need not be consecutive months and under certain circumstances hours missed from work due to military call-up will also be counted) and have performed at least 1,250 hours of service in the twelve-month period immediately preceding the date leave is to begin.
2. "Leave Year" for the purposes of this policy shall be the 12-month period measured forward from the date any employee's first FMLA leave begins.
3. A "Spouse" means a husband or wife as recognized under federal law.
4. A "Son or Daughter" for the purposes of Parental or Family Leave is defined as a biological, adopted, foster child, stepchild, legal ward or a child for whom the employee stood in loco parentis to, who is (1) under eighteen years of age or, (2) eighteen years of age or older and unable to care for themself because of physical or mental disability. A "Son or Daughter" for the purposes of Military Exigency or Military Care leave can be of any age.
5. A "Parent" means a biological, adoptive, step or foster parent or any other individual who stood in loco parentis to the employee when the employee was a son or daughter.
6. "Next of Kin" for the purposes of Military Care leave is a blood relative other than a spouse, parent or child in the following order: brothers and sisters, grandparents, aunts and uncles, and first cousins. If a military service member designates in writing another blood relative as their caregiver, that individual shall be the only next of kin. In appropriate circumstances, employees may be required to provide documentation of next of kin status.
7. A "Serious Health Condition" is an illness, injury, impairment or physical or mental condition that involves either inpatient care or continuing treatment by a Health Care Provider. Ordinarily, unless complications arise, cosmetic treatments and minor conditions such as the cold, flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental problems are examples of conditions that are

not serious health conditions under this policy. If you have any questions about the types of conditions which may qualify, contact the City's FMLA third-party Administrator (TPA) or the Human Resources Department.

8. A "Health Care Provider" is a medical doctor or doctor of osteopathy, physician's assistant, podiatrists, dentists, clinical psychologist, optometrists, nurse practitioner, nurse-midwife, clinical social worker or Christian Science practitioner licensed by the First Church of Christ. Under limited circumstances, a chiropractor or other provider recognized by our group health plan for the purposes of certifying a claim for benefits may also be considered a HCP.
9. "Qualifying Exigencies" for Military Exigency leave include:
    - Short-notice call-ups/deployments of seven days or less (NOTE: leave for this exigency is available for up to seven days beginning the date of call-up notice);
    - Attending official ceremonies, programs or military events;
    - Special childcare needs created by a military call-up including making alternative childcare arrangements, handling urgent and non-routine childcare situations, arranging for school transfers or attending school or daycare meetings;
    - Making financial and legal arrangements;
    - Attending counseling sessions for the military service member, the employee, or the military service members son or daughter who is under 18 years of age or 18 or older but is incapable of self-care because a mental or physical disability;
    - Rest and Recuperation (NOTE: fifteen (15) days of leave is available for this exigency per R&R event);
    - Post-deployment activities such as arrival ceremonies, reintegration briefings and other official ceremonies sponsored by the military (Note: leave for these events is available during a period of 90-days following the 55 termination of active-duty status). This type of leave may also be taken to address circumstances arising from the death of a covered military member while on active duty;
    - Parental care when the military family member is needed to care for a parent who is incapable of self-care (e.g., arranging for alternative care or transfer to a care facility); and,
    - Other exigencies that arise that are agreed to by both the City and employee.
10. A "Serious Injury/Illness" incurred by a service member in the line of active duty or that is exacerbated by active duty is any injury or illness that renders the service member unfit to perform the duties of their office, grade, rank or rating.

12.1B **Notice and Leave Request Process**

FORESEEABLE NEED FOR LEAVE

If the need for leave is foreseeable because of an expected birth/adoption or planned medical treatment, employees must give at least thirty (30) days' notice. If 30-days'

notice is not practicable, notice must be given as soon as possible. Employees are expected to complete and return a leave request form prior to the beginning of leave. Failure to provide appropriate notice and/or complete and return the necessary paperwork will result in the delay or denial of leave.

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

LEAVE REQUEST PROCESS
Any employee requesting leave under FMLA should notify the immediate supervisor and contact the City's FMLA TPA. The FMLA TPA will provide information and the necessary forms.

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

12.1C **Certification and Fitness for Duty Requirements**

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

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

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

12.1D **Scheduling Leave and Temporary Transfers**

Where possible, employees should attempt to schedule leave so as not to unduly disrupt operations. Employees requesting leave on an intermittent or reduced schedule basis that

is foreseeable based on planned medical treatment may be temporarily transferred to another job with equivalent pay and benefits that better accommodates recurring periods of leave.

12.1E **Leave Increments**

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

FAMILY CARE, PERSONAL MEDICAL LEAVE, MILITARY EXIGENCY AND MILITARY CARE
Leave taken for these reasons may be taken in a block or blocks of time. In addition, if a Health Care Provider deems it necessary or if the nature of a Qualifying Exigency requires, leave for these reasons can be taken on an intermittent or reduced schedule basis.

12.1F **Health Insurance**

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

12.1G **Paid Leave Utilization During FMLA Leave**

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

12.1H **Return to Work**

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

12.1I **General Provisions**

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

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

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

12.1J **FMLA Leave Conditions When Both Spouses are City Employees**

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

12.2 **Leave Donation Program**

*See Policy 11.1F*

12.3 **Extended Medical Leave Policy**

Employees occupying regular full-time non-sworn positions are eligible to request extended medical leave of absence due to disability from personal illness and/or injury. The employee applying for an Extended Medical Leave of Absence should notify the immediate supervisor and contact the City's TPA for Absence Management. The TPA will provide information and the necessary documents to the employee to begin the process. The TPA, upon review of the request application and in consideration of support documents received from the medical provider, will notify the City Human Resources Department of the decision.

- Regular full-time non-sworn employees may be granted extended medical leave of absence not to exceed 12 consecutive months from the date the employee is unable

to work due to disability from illness and/or injury and only after all accumulated PTO and compensatory leave have been exhausted.

- PTO and General Pension service credits will not accrue while employees are on extended medical leave of absence without pay. Accrual of all leave benefits will resume on the first full day the employee is at work after the leave.
- The City reserves the right to evaluate the employee's status at any time during extended medical leave to make determinations, such as whether or not the employee may remain on extended illness leave or remain in City employment, etc. Criteria used, but not limited to, are the position the employee holds, the anticipated length of the employee's disability, documentation supplied by the employee's primary care physician and/or the City's physician(s), etc.

Employees, who take approved extended medical leave without pay and who wish to continue Health Care Plan benefit coverage or life insurance coverage while on leave, must contact the City's benefits' office, in the Human Resources Department, to make necessary financial arrangements in accordance with the guidelines and provisions of the appropriate City Insurance Program. These arrangements must be completed before the end of the first pay period that the employee is on leave of absence without pay. If insurance premiums are not timely received by the Benefits' Office, health insurance coverage may be terminated.

### 12.4 Tennessee Maternity Leave Act (TMLA)

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

An employee requesting parental leave should give at least three (3) months' advance notice by contacting the City's TPA of the anticipated date of departure for parental leave, the length of parental leave, and the intention to return to full-time employment after parental leave. The employee shall be restored to their previous or a similar position with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of their leave.

TMLA will run concurrently with FMLA. Any PTO used for this reason will count against FMLA/TMLA leave entitlement. Further, parental leave will not affect the employee's right to accrue PTO and receive advancement, seniority, lengthy of service credit, benefits, plans or programs for which they were eligible at the date of their leave and any other benefits or rights of employment incident to their employment position.

Employees must continue to make timely payments of their portion of the premiums for such coverage.

12.5 **Military Leave**

Any employee of the city called to enter the military services of the United States (including the Army, Army Reserves, Army National Guard, Navy, Naval Reserve, Marine Corps, Marine Corps Reserve, Air Force, Air Force Reserve, Air National Guard, Coast Guard, Coast Guard Reserve, Commissioned Corps of the Public Health) shall be given a leave of absence for the duration of such military service, and upon the termination of such service, the Mayor or Department Head in the department in which such employee was employed shall reinstate the employee in the position they held at the time they entered such military service, if such position exists.
The process for reinstatement of employees returning from military leave begins when the employee notifies the department head or designee of their intent to return to work. The following guidelines apply:

1. On the first workday back for employees deployed 30 days or less; Within 14 days of the end of service for employees deployed up to 180 days; and
2. Within 90 days of the end of service for employees deployed 181 days or longer.
3. The returning employee will be reinstated in the position they would have attained had they not been absent for military service, with the same seniority, status and pay.

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

Unless their military organization requires a specified time for the training period, the employee shall arrange with their Department Head for a mutually suitable time period.

Employees shall be granted twenty (20) scheduled workdays of paid leave each calendar year for active-duty service, inactive duty service, and required annual training. After the twenty (20) days of military pay has been exhausted, the employee activated for military service may elect to use accrued PTO balance (all or in part) or immediately commence leave without pay.

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

## 12.6 **Court Leave**

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

When a City employee is requested by the Office of the City Attorney to appear in court on behalf of the City, they must appear or be subject to disciplinary procedures. The employee will have the same benefits as though they were summoned or subpoenaed. The employee cannot be disciplined for their testimony to the extent that their testimony is true and/or reasonably believed to be true.

Employees, who appear in court in the normal course and scope of their duties, cannot be considered to be on leave for such appearances if they appear at the request of the Office of the City Attorney or if they are appearing as required as part of their job duties. When an employee has been granted leave for court attendance and is excused by proper court authority, they must report back to their place of duty.

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

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

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

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

Employees who are paid on a mileage basis will be paid the mileage pay they would have received had they reported for work rather than for jury service on each day covered by the provisions of this Section. This Section should not apply to temporary employees.

12.7 **Voting Leave**

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

1. Employees who are registered voters may receive reasonable time off to vote if they request such time off before 12 noon the day before the election. The supervisor may specify the hours during which the employee may be absent to vote, and the time off may not exceed three (3) hours.
2. No time off will be granted if the polls in the county where the employee is a resident are open three (3) or more hours before the employee is scheduled to begin work or if the polls close three (3) or more hours after the employee's work schedule ends.
3. In accordance with Public Chapter 741, which amended TCA Section 2-9-103 effective April 15, 1998, any full-time employee appointed by a county election commission to work parttime as a voting machine technician, shall be granted unpaid leave for the day(s) required for the technician's duties. Supporting documentation may be required by the appropriate approving authority for the period of duty. An employer may not require the employee to use accrued annual leave and/or compensatory time for the period. However, either may be used at the employee's option.

12.8 **Administrative Leave**

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

The City recognizes the following types of administrative leave:

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

2. Any Department Head may place any employee on administrative leave for up to a maximum of fourteen (14) business days for the sole purpose of collecting information to determine the facts to support a disciplinary action against an employee. Administrative leave is necessitated by allegations of misconduct against an employee, pending mandatory alcohol and drug screen results or any other action that shall result in the best business practice of removing an employee from the work site.
3. Employees may be temporarily removed with pay from their normal job duties at the discretion of the Department Head after sustaining a serious, documented, work-related injury.
4. From time to time, the Mayor, at their discretion, may close certain offices, dismiss nonessential personnel and authorize the use of administrative leave. Department Heads shall designate which of their essential functions must continue and which employees must report to or remain at work when administrative closings are announced.

12.9 **Leave of Absence (LOA)**

Employees who are not eligible for leave under FMLA and need time off for personal or health reasons, they may apply for a Leave of Absence (LOA). Accrued PTO balance and earned compensatory leave will be used during the period of approved leave of absence. If neither is available then the approved leave of absence will be without pay.

The request for leave cannot be open ended and will be for a definite stipulated period of time. Employees applying for a Leave of Absence should notify the immediate supervisor and contact the City's TPA for Absence Management. The TPA will provide information and the necessary documents to the employee to begin the process. A minimum of two (2) weeks advance notice is required prior to requested absence, when feasible. In the event an employee is unable to provide two (2) weeks advance notice, the employee must notify the immediate supervisor or the Department Head within twenty-four (24) hours of submitting the request for Leave. After business hours, employees must notify their supervisor by leaving a voice message.

The TPA, upon review of the request application and in consideration of the support documents provided, will notify the City Human Resources Department of the leave request decision.

The total period of absence from City employment cannot exceed twenty-six (26) weeks in a consecutive twelve (12) months period, unless qualified for additional leave under other City policy, State or Federal law.

Employees will not be eligible for accrual of PTO while on an approved Leave of Absence, without pay. At the conclusion of any leave of absence, employees reporting for

duty must notify the Department Head or designee of the anticipated date of return to work prior to returning.

Employees returning to work from a leave of absence due to personal medical reasons must follow the Return to Work Policy.

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

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

12.10 **Bereavement Leave**

In the event of the death of an employee's immediate family, the employee shall be given time off with pay to attend the funeral, attend to post-death matters, and to grieve the loss of an immediate family member. Such time shall not be charged to their PTO in accordance with the following:

1. Up to three (3) scheduled workdays.
2. Immediate family, for the purpose of this policy, is defined to include the following:
    a. Spouse including domestic partner
    b. Children including adopted, stepchildren, and foster children.
    c. Parents including adopted, step, in-laws, and foster.
    d. Sister/Brother/Stepsister/Stepbrother
    e. Grandparents
    f. Grandchildren

Temporary workers are not eligible for bereavement leave.

An employee requesting bereavement leave is required to present the verification of a death or funeral. Examples of the verification includes but is not limited to: obituary, statement from funeral home, program of eulogy, a copy of death certificate, etc. For more information about bereavement leave, please contact the Human Resources Department at 423-643-7200.

## 12.11 **Leave Records**

Records of leave balance and leave requests will be maintained by the Human Resources Department Records Division. Leave requests must be submitted on approved forms or through the City's Human Resources Information System (Oracle) Employees may be subject to disciplinary actions for undocumented absence requests.

# City of Chattanooga Employee Information Guide

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|---|---|---|
| **Policy Sections:**<br>13.1 Definitions<br>13.2 Rights and Responsibilities<br>13.3 Education and Training<br>13.4 General Inspection Procedures<br>13.5 Imminent Danger Procedures<br>13.6 Employee Complaint Procedure<br>13.7 Variance Procedure<br>13.8 Abatement Orders and Hearings<br>13.9 Penalties<br>13.10 Recordkeeping and Recording<br>13.11 Standards Authorized<br>13.12 Compliance with Other Laws Not Excused | | Effective: 1/31/2023<br>Supersedes: |

## PURPOSE

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

### 13.1 Definitions

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

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

**Director of Safety and Risk Management or Designee**: the person, Director of Safety and Risk Management, designated by the establishing ordinance, or executive order to perform duties or to exercise powers assigned so as to plan, develop, and administer the Occupational Safety and Health Program Plan for the employees of City of Chattanooga.

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

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

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

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

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

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

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

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

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

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

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

13.2 **Rights and Responsibilities**

THE CITY HAS THE FOLLOWING RIGHTS AND RESPONSIBILITIES THROUGH THE ADMINISTRATION OF THE PROGRAM PLAN

1. The City shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
2. The City shall comply with Occupational Safety and Health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972. Each department may implement additional safety guidelines as needed, provided that they meet the requirements of this Employee Information Guide and the Tennessee Occupational Safety and Health Act of 1972.
3. The City shall refrain from an unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employers place(s) of business. The City shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
4. The City is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
5. The City is entitled to request an order granting a variance from an occupational safety and health standard.
6. The City is entitled to protection of its legally privileged communication.
7. The City shall inspect all worksites to ensure the provisions of this Program Plan are complied with and carried out.
8. The City shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
9. The City shall notify all employees of their rights and duties under this Program Plan to include a suitable safety and health training program.

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

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

The Program Plan provides reasonable opportunity for and encourages the participation of employees in the effectuation of the objectives of this Program Plan, including the

opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

The Director of Safety and Risk Management is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program Plan.

The Director of Safety and Risk Management may designate other persons as they deem necessary to carry out his powers, duties, and responsibilities under this Program Plan. This delegation includes the power to make inspections, provided procedures employed are as effective as those employed by the Director of Safety and Risk Management.

The Director of Safety and Risk Management's responsibilities to administer the Program Plan include the following:

1. The Director of Safety and Risk Management shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this Program Plan. The Director of Risk Management may request qualified technical personnel from any department or section of government to assist them in making compliance inspections, accident investigations, or as they may otherwise deem necessary and appropriate in order to carry out his duties under this Program Plan.
2. The Director of Safety and Risk Management shall prepare the report to the Commissioner of Labor and Workforce Development required by this Program Plan.
3. The Director of Safety and Risk Management shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. They shall make recommendations to correct any hazards or exposures observed. They shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
4. The Director of Safety and Risk Management shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
5. The Director of Safety and Risk Management shall maintain or cause to be maintained records required under this Program Plan.
6. The Director of Safety and Risk Management shall report all work-related fatalities within eight (8) hours and all work-related inpatient hospitalizations, all amputations and losses of eye within twenty-four (24) hours to the Commissioner of Labor and Workforce Development.
7. The Director of Safety and Risk Management assists the Commissioner of Labor and Workforce Development or their monitoring activities to determine Program Plan effectiveness and compliance with the occupational safety and health standards.

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

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

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

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

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

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

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

1. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this Program Plan and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to their own actions and conduct.

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

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

4. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this Program Plan may file a petition with the Commissioner

of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.

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

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

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

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

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

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

11. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor, Safety Specialist, or the Director of Safety and Risk Management or designee within twenty-four (24) hours.

### 13.3 **Education and Training**

Education and training will be provided to instruct all City employees on the following components:

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

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

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

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

City employees will also receive training on hazards and dangers of confined or enclosed spaces. Confined or enclosed space means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4) in depth such as pits, tubs, vaults, and vessels.

Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.

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

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

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

## 13.4 General Inspection Procedures

In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need

correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

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

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

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

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

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

Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.

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

## 13.5 Imminent Danger Procedures

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

1. The Director of Safety and Risk Management shall immediately be informed of the alleged imminent danger situation and they shall immediately ascertain whether there is a reasonable basis for the allegation.

2. If the alleged imminent danger situation is determined to have merit by the Director of Safety and Risk Management, they shall make an immediate inspection of the alleged imminent danger location.

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

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

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

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

## 13.6 Employee Complaint Procedure

If any employee feels that they are assigned to work in conditions which might affect their health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Director of Safety and Risk Management in accordance with the following process:

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

2. Upon receipt of the complaint letter, the Director of Safety and Risk Management will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Director of Safety and Risk Management will answer the complaint in writing stating

whether or not the complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

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

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

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

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

13.7 **Variance Procedure**

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

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

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

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

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

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

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

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

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

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

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

13.8 **Abatement Orders and Hearings**

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

Abatement orders shall contain the following information:

1. The standard, rule, or regulation which was found to violated;
2. A description of the nature and location of the violation;
3. A description of what is required to abate or correct the violation; and
4. A reasonable period of time during which the violation must be abated or corrected.

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

13.9 **Penalties**

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

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

13.10 **Recordkeeping and Recording**

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

13.11 **Standards Authorized**

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

13.12 **Compliance with Other Laws Not Excused**

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

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

# City of Chattanooga Employee Information Guide

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| **Policy Sections:**<br>14.1 Administration<br>14.2 Definitions<br>14.3 Requirements<br>14.4 Exclusions<br>14.5 IOD Compensation<br>14.6 Hospital, Medical or Drug Expenses<br>14.7 Prescriptions for IOD<br>14.8 Cessation Or Declination of IOD Benefits<br>14.9 Death Benefits<br>14.10 Actions by Third Parties<br>14.11 Claims Disposition; Maximum Benefits; Settlement; Appeal<br>14.12 General Pension Plan; Fire and Police Pension Fund<br>14.13 Pre-existing Conditions<br>14.14 Post-accident/Post-incident Employee Drug and Alcohol Testing<br>14.15 Misrepresentation: Fraudulent Activities<br>14.16 IOD Case Investigation<br>14.17 Request for Reconsideration; Appeals<br>14.18 Light Duty<br>14.18A Procedures<br>14.18B Duration<br>14.18C Non-Work-Related Injuries<br>14.19 Return to Work<br>14.19A Return to Work IOD<br>14.20 Firefighter Cancer Presumptions | | Effective: 3/31/2026<br>Supersedes: 1/31/2023 |

## PURPOSE

The city has implemented an injury on duty (IOD) Policy to provide certain benefits for employees who sustain a job-related injury, illness or occupational disease primarily arising out of the course and within the scope of employment.

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

The city hereby retains the right to terminate this policy at any time in order to safeguard the assets of the city of Chattanooga or otherwise protect the best interest of city government.

The three following core principles drive Risk Management's oversight of the TPA's management of city injury on duty claims:

- Employee-Centric approach: Prioritize the long-term health and success of the injured city employee, ensuring proper and timely benefits are provided, and all employees' questions are answered.
- Cost Management: Manage costs responsibly to avoid a significant financial burden on the City of Chattanooga and its taxpayers.
- Claim Integrity: Providing a timely response and treatment to employees in need. Managing claims consistently, fairly, and compassionately; Holding employees accountable to city policy, medical standards and applicable Tennessee laws.

## 14.1 Administration

The injury on duty program shall be administered under the direction of the Risk Officer. The Risk Officer may delegate a Third Party Administrator (TPA) as the Program Manager. The Program Manager shall determine whether an employee's injury or condition qualifies as an IOD arising out of and in the course of employment and whether an employee is eligible for medical treatment at the city's expense. The city shall, through a Program Manager, provide each covered IOD claim with an adjuster. All accepted IOD claims will be case managed until the employee has reached maximum medical improvement (MMI) or, if applicable, a Permanent Partial Impairment (PPI) rating has been assigned.

Treatment for an accepted IOD will typically be covered for one (1) year from the date of injury, or until the authorized provider has issued an MMI status, whichever occurs first, unless there are other mitigating factors. The claimant will have the opportunity to request that treatment continue, as provided for in this policy.

In conjunction with the Program Manager, the city shall recognize national guidelines including without limitation American College of Occupational and Environmental Medicine the Official Disability Guidelines.

Regardless of employee residency or remote work locations, the City of Chattanooga, Tennessee supervises all employees' work assignments, and manages its self-insured injury on duty policy and benefits program within the state of Tennessee, and all employees recognize that all claims of work-related injuries or illnesses while they are employed by the City of Chattanooga are governed by Tennessee law and are only subject to the jurisdiction of Tennessee courts.

To report fraud, waste, or abuse regarding city government, which includes fraudulent injury claims, contact the Office of Internal Audit directly at (423) 643-7310. This policy also assigns responsibility to the City's Risk Officer to develop and implement a fraud risk assessment methodology consistent with the leading practices of the Committee of Sponsoring Organizations (COSO) Fraud Risk Management Guide.

## 14.2 Definitions

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

**Adjuster:** A person with the Program Manager who helps facilitate and coordinate an injured Employee's IOD claim.

**Case Manager:** A person who coordinates the medical diagnostic and treatment services provided by the authorized treating physician(s) to the injured Employee.

**Employee or Employees**: All city representatives (including city council members) and anyone employed by the city. The term 'Employee' includes officers—unless specifically omitted in the text or the context requires their exclusion—and all elected officials.

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

**Fraud**: All acts, omissions, and/or concealments which involve a breach of legal or equitable duty, trust, or confidence, and are injurious to another, or by which an undue and unconscientious advantage is taken of another.

**Idiopathic**: Relating to or denoting any disease or condition arising spontaneously, from an obscure or unknown cause, from personal circumstance, or reasonably not related to the workplace.

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

1. An injury is "accidental" only if the injury is caused by a specific incident, or set of incidents, arising primarily out of and in the course and scope of employment, and is identifiable by time and place of occurrence, and shall not include the aggravation of a preexisting disease, condition or ailment unless it can be shown to a reasonable degree of medical certainty that the aggravation arose primarily out of and in the course and scope of employment; An injury "arises primarily out of and in the course and scope of employment" only if it has been shown by a preponderance of the evidence that the employment contributed more than fifty percent (50%) in causing the injury, considering all causes;
2. An injury causes death, disablement or the need for medical treatment only if it has been shown to a reasonable degree of medical certainty that it contributed more than fifty percent (50%) in causing the death, disablement or need for medical treatment, considering all causes;
3. "Shown to a reasonable degree of medical certainty" means that, in the opinion of the physician, it is more likely than not considering all causes, as opposed to speculation or possibility;
4. The opinion of the treating physician shall be presumed correct on the issue of causation but this presumption shall be rebuttable by a preponderance of the evidence and subsequent independent medical examination.

An injury may also be referred to as IOD.

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

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

**Maximum Medical Improvement (MMI)**: A designation given to an employee by the medical provider when the employee has reached the maximum level of improvement from each IOD. MMI is the earliest date after which, based on reasonable medical probability, further material recovery from injury can no longer be reasonably anticipated.

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

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

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

**Misrepresentation**: A false or misleading statement or an omission which renders other statements misleading.

**Negligence**: The omission to do something which a reasonable person would do or doing something which a prudent and reasonable person would not do.

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

1. It can be determined to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment;
2. It can be fairly traced to the employment as a proximate cause;
3. It has not originated from a hazard to which workers would have been equally exposed outside of the employment;
4. It is incidental to the character of the employment and not independent of the relation of employer and employee;
5. It originated from a risk connected with the employment and flowed from that source as a natural consequence, though it need not have been foreseen or expected prior to its contraction; and
6. There is a direct causal connection between the conditions under which the work is performed and the occupational disease. Diseases of the heart, lung, and hypertension arising out of and in the course of any type of employment shall be deemed to be occupational diseases.

**Panel:** A list of medical providers compiled by the Program Manager, to be provided to the employee, from which the employee must select to begin medical treatment.

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

**Posttraumatic Stress Disorder (PTSD)**: A psychiatric disorder that may occur in people who have experienced or witnessed a traumatic event such as a natural disaster, a serious accident, a terrorist act, war/combat, or rape or who have been threatened with death, sexual violence, or serious injury. Listing a PTSD definition in this policy in no way obligates the City to approve claims of this distinction.

**Presumptive Claim**: A claim that the Tennessee Code Annotated describes a condition where an injury to a certain worker is presumed to have happened on, or due to, the job. A presumptive claim is able to be rebutted with medical evidence, in which case coverage shall cease.

**Program Assitants(s)**: The Program Assistant is a city employee and the designee for coordination with the Program Manager of the injury on duty Program.

**Program Manager:** The current contracted Third-Party Administrator under the authority of the Risk Officer.

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

14.3 **Requirements**

Employees injured on the job are required to follow the steps outlined in this policy. The requirements are maintained to ensure the injury is reported, to ensure the employee receives appropriate care, and to ensure that city resources are responsibly utilized.

If an employee fails to follow a requirement, or a portion thereof, it may result in the rejection or cessation of the IOD program benefits. All employees must respond timely to requests for assistance from the Risk Department, the Program Assistant, and the Program Manager.

The Risk Department shall make the location and availability of the current version of the First Report of Injury known and accessible to all employees. Employees will submit First Report of Injury via the Risk Management Information System intake form. If an employee submits the First Report of Injury on a previous version of the form, they must submit the First Report of Injury through the correct process within 24 hours of being notified that they have submitted the First Report of Injury incorrectly.

**EMPLOYEE RESPONSIBILITY**

Employees must comply with the following requirements to receive IOD compensation and/or payment of IOD Medical Expenses for covered IODs:

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

    a. An employee must also complete the First Report of Injury on the Risk Management Information System within the twenty-four (24) hours period. Failure to report the IOD and complete the First Report of Injury within the twenty-four (24) hour period may result in forfeiture of any IOD benefits, unless the employee is involved in a serious injury and is physically unable to do so, in which case the supervisor must submit it on behalf of the employee. If the supervisor submits the First Report of Injury on behalf of the employee, the employee must complete a supplemental First Report of Injury when capable of doing so.

**DEPARTMENT RESPONSIBILITY**

1. City departments must respond timely to requests for assistance from the Risk Department.
2. Report of Injury – city departments must assist employees, as needed, to complete the First Report of Injury, including submitting on behalf of the employee, if necessary.
3. City departments are responsible for all communication paths that allow a department head to be aware of a department representative's First Report of Injury submission.
4. Death, amputation, loss of eye, or hospitalization arising from a workplace injury must be immediately reported by the department to the Risk Department and not exceed an eight (8) hour period.

**FAILURE TO REPORT**

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

b. In the event the employee sustains a serious injury prohibiting completion of the First Report of Injury, the employee may not be entitled to receive any benefits under the injury on duty program unless the city receives medical documentation from a medical provider giving reasonable excuse for the Employee's failure to complete the First Report of Injury.

c. Failure of the department to report the injury to the Risk Department and complete the First Report of Injury within 24 hours may result in referral to city administration.

**Requirements, Continued**

Seek Medical Care

1. Employees must seek approved medical treatment for an IOD within five (5) calendar days from the date of occurrence. Non-compliance with this rule may result in denial of the IOD claim.
2. Employees will receive treatment only at city-designated facilities. If an employee is referred to a specialist, the employee must refer to the panel of medical providers provided by the Program Manager. The employee has five (5) business days to select a medical provider from the panel upon receipt of the panel from the Program Manager. On the sixth business day, the Program Manager will select a medical provider to initiate treatment in a timely manner.
3. Employees are assumed to have knowledge of all scheduled appointments, as communicated by the authorized provider, case manager, or Program Manager or designee, to the employee's contact information of record.
4. In an emergency or after-hours situation, injured employees may receive treatment at the nearest or most appropriate facility based on the severity of the injury (urgent care, emergency room).
    - Once an employee is stabilized and released, the Program Manager has the right to direct or relocate the Employee to an authorized medical provider or facility.
5. Any unauthorized treatment will be paid for by the employee except for unavoidable emergency situations.

Investigation Compliance

a. Employees must respond to the city Program Manager regarding a claim within twenty-four (24) hours of contact with the employee's current contact information of record.
b. Employees must undergo recorded statement(s) regarding the claim with the Program Manager.
c. Employees must respond timely to all correspondence regarding the claim, unless incapacitated.

Medical Authorization

a. Employees must complete a medical authorization release related to the injury for all providers treating their injury within five (5) business days.
b. During the lift of the claim, employees may be required to sign additional medical authorization releases for past and current medical provider records.
c. Medical release will not extend past ten (10) years and will only be related to the injury-on-duty claim.
d. Medical authorization releases are not to exceed a ten (10) year history.

e. Medical authorization releases must be specific to treating the injury and not a blanket release of information.

f. These medical records may be used in determining the employee's eligibility for benefits under the IOD program.

g. The medical authorization will be in effect for one (1) year.

Designated Medical Provider

a. If an employee is referred by an authorized medical provider to a specialist and/or because surgery is ordered, the Program Manager will provide the Panel of specialists to choose from within one (1) business day.

b. After receiving the Panel, employees must select a doctor within five (5) business days.

c. Second opinions (one (1)-time maximum per specialty per claim) are allowed at the employee's request. The second opinion must come from a provider on the original panel.

d. Only designated providers will be authorized to provide treatment.

Treatment Compliance

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

b. If an employee misses three (3) scheduled appointments for one specific injury without prior notification to the Case Manager, the employee's IOD benefits may be terminated.

c. If an employee needs to reschedule an IOD appointment, they must notify the Case Manager.

Department Information

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

Physical Restrictions

a. It is the employee's duty to follow medical directives.

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

c. A medical provider's "no work" directive applies to the injured employee's primary employment with the City as well as all secondary employment. It is the employee's duty to follow medical directives for any other non-paid activity.

d. Employees must follow restrictions at all times. Any incidents that could affect or exacerbate the injury while an employee is in an IOD process must be reported to the Program Manager immediately or as soon as possible.

14.4 **Exclusions**

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

1. Activities neither related to nor in the course and scope of the employee's job. The Program Manager or designee will make such determinations.
2. Injuries or illnesses as a result of intoxication from alcohol use, or from unlawful or incorrect use of a controlled substance.
3. Injury or illnesses resulting from the adverse effects of a personal prescription or personal over-the-counter medication(s).
4. Injuries or illnesses resulting from misconduct, including horseplay.
5. Intentional or self-inflicted injury even as a result of a medical or mental condition.
6. Failure or refusal to use safety devices and/or personal protective equipment as outlined in the departmental safety policies, as amended; failure to perform duties as required by law; or failure to follow general safety precautions in performing job duties.
7. On-the-job injuries or illnesses aggravated by any activity while off-duty.
8. Injuries suffered while an employee is traveling to and/or from work. Notwithstanding the foregoing any employee responding to or going home from an exigent and/or emergency situation including without limitations.
9. Pre-existing injuries or conditions unless the claim of a work-related aggravation or exacerbation of a pre-existing condition is documented by a medical provider to arise primarily out of and in the course and scope of employment.
10. Idiopathic injury, also referred to as a personal condition.
11. Hernia is only accepted if it results from injury by accident out of and in the course and scope of the employee's employment and it must be definitively proven:
    a. That there was an identifiable accident with injury resulting in hernia or rupture; and
    b. That the identified injury was accompanied by sudden and immediate pain; and

c. That the hernia or rupture immediately followed the identifiable accident; and

d. That the hernia or rupture did not exist prior to the accident for which compensation is claimed; and

e. That the incident of hernia or rupture was reported immediately, or as soon thereafter as reasonable and practical, to the employee's immediate supervisor.

12. Health conditions which are attributed to the gradual onset of symptoms, associated with physical or mental changes, degenerative conditions (whether known or unknown to the employee), or are attributed to repetitive motion.

## 14.5 IOD Compensation

Except for the exclusions listed in this policy, and provided that employees comply with the requirements of this policy, IOD Compensation will be made in the following manner for covered IODs. See the end of this section for limitations.

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

2. While off work due to an IOD, employees will receive IOD Compensation at the pay rate of seventy-five percent (75%) of the employee's regular pay rate until the employee has been placed on maximum medical improvement.

    a. IOD Compensation applies only to the periods of time that an injured employee is physically unable to work full duty or light duty, as determined by the authorized provider.

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

    c. If an employee is on IOD leave and wishes to take a "vacation" or personal leave where they would not be available to report to work or to an IOD appointment, they will be required to use PTO.

    d. An employee must be able to return to work the day after they are released to either light duty or full duty. If they do not return, PTO will be used. If they do not return for three (3) consecutive assigned workdays, they may be considered as having abandoned the job.

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

IOD compensation is based on the employee's regular work schedule. No extra pay will be provided for appointments or medical treatment that occur outside of the employee's regular work schedule

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

PTO may be used to supplement IOD compensation but must not exceed scheduled hours normally worked. Employee claimants must request this supplementation directly from their department.

PTO accrual will be suspended for an employee who has been placed in a confirmed IOD status by a medical provider. The PTO accrual will resume after the employee is released by a medical provider to return to work at full or light duty, and they have returned to a work assignment in either capacity.

The IOD program does not allow employees to be paid IOD compensation and Short-Term Disability concurrently.

IOD compensation will be made to employees for a period not to exceed placement of maximum medical improvement or one year after the date of injury, whichever comes first. The employe may request to extend their IOD compensation benefits for up to an additional one hundred and eighty-three (183) calendar days beyond the one (1) year period only in circumstances where the employee's authorized treating physician recommends extending treatment and has documented that MMI should reasonably be achieved within the extension period. Employees must contact the assigned Case Manager to request an extension. An independent medical exam may be required before an extension is granted. Extensions are not automatic, nor guaranteed. The decision to grant such an extension shall be made by the Risk Officer in conjunction with the Program Manager.

### 14.6 Hospital, Medical or Drug Expenses

Except for the exclusions listed in this policy, and provided that employees comply with the requirements of this policy, the city will pay medical expenses attributable to a covered IOD sustained by an employee for a period not to exceed claim closure.

Dental care is provided only if it is necessary as a direct result of an IOD physical injury arising out of and in the course and scope of an employee performing their duties and does not include dental treatment for stress/anxiety and/or TMJ.

Mileage for treatment required for the IOD is not covered unless travel outside of Hamilton County, Tennessee, is required. Mileage shall be at the current IRS allowed rate equal to current rate for City of Chattanooga government travel.

### 14.7 Pharmacy Prescriptions for IOD

Injured employees requiring prescribed medications must have their prescriptions filled at a approved pharmacy. Approval from the Risk Officer must be received in order to have the prescriptions filled at other pharmacies.

14.8 **Cessation Or Declination of IOD Benefits**

IOD benefits shall cease, be declined, or be considered as not covered, when any of the following occurs:

1. Employee does not comply with a medical provider's instructions; unless the employee has concerns with his/her care plan and must address it within five (5) business days with their adjuster.
    - If a personal medical condition exist including without limitation obesity and smoking.
2. When case closure has been reached;
3. Employee does not seek initial treatment within five (5) business days;
4. Employee seeks treatment with an unauthorized medical provider, except for unavoidable emergencies, in which case notification must be submitted to the Program Manager within five (5) business days after treatment;
5. Employee does not attend scheduled appointments;
6. Employee's non-compliance with the requirements outline in this policy;
7. Employee files a fraudulent IOD claim; or fraudulent supporting documentation or information;
8. Employee incarcerated following a conviction of a felony or misdemeanor;
9. Inactive treatment period of ninety (90) consecutive days of an IOD claim, starting the day after the date of injury, unless an authorized provider has documented a defined period of future IOD treatment;
10. Idiopathic claims
    - Upon claim denial disposition based on medical evidence.
    - If employee wishes to pursue any appeal for coverage, employee must bear the burden of proof, and assume any and all expenses related to treatment and documentation serving as evidence for the appeal.
11. Presumptive Claims
    - Medical evidence rebuts a presumptive claim;
    - Cancer – when cancerous material has been removed. Firefighter cancer presumptions are covered separately in section 14.20 of this policy.
12. Employees who opt out of IOD treatment is deemed a waiver of any claims or benefits under the IOD policy.

14.9 **Death Benefits**

In the event an eligible employee has a compensable IOD injury which results in the employee's death, the city shall pay to the employee's estate the sum of ten-thousand ($10,000) dollars.

This benefit does not affect any basic life insurance the city provides for full-time employees, nor any accidental life insurance that the Employee may be provided as a benefit from the city.

This provision shall not apply to the Fire and Police pension fund members who may otherwise be covered by a separate death benefit.

14.10 **Actions by Third Parties**

If your injury on duty (IOD) is caused by a third party's negligence, the city will not issue IOD compensation, medical, or other related expenses until you sign a subrogation and assignment agreement. This agreement, approved by the City Attorney, assigns to the city any claims you have against a third party, up to the amount the city pays. It also includes an assignment of any claims you may have against your uninsured motorist or homeowner's insurance carrier.

14.11 **Claims Disposition; Maximum Benefits; Settlement; Appeal**

***Maximum Benefits***: IOD Compensation shall adhere to Section 14.5 of this policy. Medical expenses will not extend beyond claim closure.

***Resolution, Investigation, or Clarification of Medical Evidence:*** The city may use additional standard practices of medical review, in order to gain clarity, investigate, or resolve issues related to medical evidence given in a claim. Examples of such standard practices include the use of independent medical exam or a utilization review. If two are not concurrent, a third will be ordered.

The city has the sole discretion whether or not to utilize these additional standard practices. If exercised, the practices will be facilitated by the Program Manager.

An employee may obtain an additional medical opinion at their own expense. The medical opinion gained by the employee will be reviewed for consideration but is not guaranteed.

***Settlements***: Settlements for claims that arise during employment are reserved for major losses of limbs or abilities.

The employee and the city shall have the right to settle all matters of compensation between themselves. The Risk Officer may approve settlements not to exceed fifty-thousand dollars ($50,000.00). Settlements equal to or greater than fifty-thousand dollars and one cent ($50,000.01), will be presented by the City Attorney to the City Council for approval.

Once a settlement is offered, the Employee shall have a maximum of fifteen (15) calendar days from the date of the offer of settlement to respond.

- **Accepting a settlement:** The employee must sign and return the settlement document to the Program Manager in order to officially accept.

  Due to scheduling, all settlements needing City Council approval may extend the time for the employee to receive a final pay-out.

  Additionally, the City Council may establish administrative procedures for the review and approval of settlements. If the City Council or any designated hearing body or judge approves an award for an IOD settlement and the employee accepts the award, all amounts paid by the city and received by the employee shall be a final compromise and settlement of all matters of compensation and future medical expenses.

  Settlements not needing City Council approval will be processed for payment. Questions related to settlement status should be directed to the Adjuster or Program Manager.

- **Not Accepting a Settlement:** Employees rejecting a settlement amount, terms, conditions, or failing to respond within the allotted fifteen (15) calendar days make the offered settlement null and void and no further financial or medical obligations shall exist.

**Future Medical Expenses:** Settlements can either cover or exclude future medical expenses that are causally related and medically necessary.

If employment ends, the employee must submit a written request to the Program Manager to address future medical coverage within thirty (30) days of the employment end date.

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

1. Upon receipt of a MMI statement for each approved IOD claim, the Program Manager will request that the medical provider determine the degree of permanent or partial impairment (PPI). The PPI rating will be determined in accordance with the American Medical Association Guidelines, latest edition.

2. After receipt of the PPI rating, the Program Manager will calculate a potential lump sum settlement amount. The Settlement amount must be approved by the Risk Officer or the City Council, depending on the amount of the settlement.

3. If an employee is unable to return to their pre-injury position, the city's reasonable accommodation policy will apply. If the accommodation that is offered is a job reassignment, the compensation for the reassignment will be at the employee's current rate of pay or lower. In no event will a reassignment be a promotion and/or incorporate a pay increase.

4. IOD benefits payable under this injury on duty program may be offset by any city-sponsored disability benefits received by employees.

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

1. If an employee has reached MMI and is unable to return to work and is totally and permanently disabled and no job is available in which the employee is qualified and selected for, then the employee will be separated from employment with the city.

2. Employees who suffer a permanent total disability shall be required to apply for any city-sponsored disability benefits. IOD benefits payable under this injury on duty policy may be offset by any such benefits received by employees.

***Release and Waiver***: Any lump sum settlement that is awarded and accepted by an employee resulting in payment after the expiration of the payment periods provided for in IOD compensation section and hospital, medical and drug expenses section shall be conditioned upon the employee's execution of a release and waiver.

***Appeals Process***: If an employee disagrees with the amount of the lump sum settlement offered by the city, the employee may appeal to the Program Manager directly. If the employee still disagrees with the settlement amount after their appeal, they may request a hearing before an administrative law judge (ALJ) within thirty (30) calendar days following the city's written response to the appeal.

Notice of the appeal shall be filed with the clerk of the City Council ("clerk"). The clerk shall notify the Tennessee Secretary of State's Administrative Procedures Division ("APD") that an appeal has been filed. The APD is authorized to assign an ALJ to conduct a fair and impartial hearing and adjudicate the employee's appeal.

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

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

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

The ALJ appointed to conduct the hearing shall disclose any possible conflicts of interests and shall not engage in ex parte communications except pursuant to law or rules

of the City Council. The ALJ shall determine if there is a reasonable basis for the settlement offer. The ALJ shall affirm the settlement offer to confirm the PPI with the American Medical Association latest edition to determine if there is a reasonable basis for the calculation of the offer or modify the offer on the basis of the evidence. The ALJ shall prepare a record, including a transcript, list of exhibits admitted into evidence during the hearing and all matters of record for a fair and just adjudication of the Employee's appeal.

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

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

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

14.12 **General Pension Plan; Fire and Police Pension Fund**

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

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

14.13 **Pre-existing Conditions**

Claims attributable to a pre-existing condition or a personal condition are not covered. In order for a claim that is reported to be a work-related aggravation or exacerbation of a pre-existing or personal condition to be covered as an IOD, it must be documented by an authorized medical provider to have arisen primarily out of and in the course and scope of employment.

To be considered for IOD benefits coverage, the claimant must sign an authorization of release of health information pursuant to the Health Insurance Portability and Accountability Act and all available records must be obtained from the previous treating physician regarding the pre-existing or personal medical condition.

14.14 **Post-accident/Post-incident Employee Drug and Alcohol Testing**

Post-Accident/Post-Incident drug and alcohol testing shall be conducted in accordance with the city's drug and alcohol testing policy.

## 14.15 Misrepresentation: Fraudulent Activities

Every city representative or other individual with a role in a city injury on duty claim has the responsibility of preventing and reporting potential fraudulent activity.

Any city representative or any other individual may not willfully, knowingly or negligently perform any of the following activities (listed below) for the purpose of obtaining any portion of benefits or payments under the injury on duty policy or any other city policy, or presents or causes to be presented any written or oral statement as part of, or in support of, a claim for payment or other benefit pursuant to this policy, knowing that such statement contains any fact or thing material to such IOD claim; Engaging in potentially fraudulent activity may be grounds for (1) referral of the activity to the Internal Audit Department, (2) immediate termination of employment, (3) termination of any benefits provided, (4) civil liability and litigation and/or (5) criminal prosecution.

Fraudulent Activity Includes:

a. Filing a fraudulent IOD claim or detail;

b. Filing a retaliatory claim or detail;

c. Making any false, misleading or misrepresenting statement(s);

d. Making any omissions of any reasonably known fact or circumstance;

e. Presenting, allowing or causing to be presented an incorrect written or oral statement(s)

Persons with knowledge of a potentially fraudulent activity are required to make a report as soon as possible. The identity of the reported will be held confidential unless disclosure is required by law. Reports of fraudulent activities may be made by contacting the Risk Department, the HR Department, Office of Internal Audit, or the City Attorney's Office. Anonymous reports may be made through the Fraud, Waste and Abuse Hotline.

## 14.16 IOD Case Investigation

Conducting claim investigations is a necessary part of determining compensability which exists throughout the existence of the claim.

An employee may be contacted by the city for follow-up regarding their IOD claim.

The city has the discretion to require an evaluation from other physicians selected by the city when investigating an IOD claim. Failure by the employee to cooperate in any evaluation may result in loss of IOD benefits.

## 14.17 Request for Reconsideration; Appeals

### Request for Reconsideration

The employee may request a meeting with the Program Manager if an employee disagrees with, disputes, does not understand, or requests the following:

- The medical treatment provided; or
- That IOD Compensation and Treatment extend beyond an authorized physician's issuance of maximum medical improvement (MMI), or one (1) year from the date of injury, whichever occurs first; or
- The Program Manager's determination regarding IOD decisions under the injury on duty program; or
- The lump sum settlement offered by the city.

The meeting must be requested in writing by the employee within ten (10) calendar days following the Program Manager's written notification of the final decision.

A request for a meeting must be delivered or submitted in writing to the Program Manager.

The Program Manager shall send written confirmation to the employee acknowledging receipt of the meeting request.

At this meeting, the employee and the Program Manager will discuss the facts and review all available information related to the claim in an attempt to explain the Program Manager's decision and to resolve any disputes. The burden of proof for reversal of the decision is the total responsibility of the employee.

The Program Manager will explain the employee's rights under the injury on duty program and will attempt to reach a mutual agreement resolving any disputes.

The Program Manager will issue a written final summary and/or any decisions resulting from the meeting.

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

If the matter is not resolved during the meeting with the Program Manager, or if the employee does not request the meeting with the Program Manager, the employee may appeal the decision by requesting an appeal hearing before an Administrative Law Judge (ALJ) within thirty (30) days following:

1. The Program Manager's written notification of the final decision from the meeting; or
2. The written notice to the employee of the action that the employee chooses to appeal.

A request for an appeal hearing in accordance with the appeals process covered previously must state specifically those issues in the Program Manager's final decision, or the other written notice to the employee, upon which the review is requested. The provisions not specified for review are considered resolved and are not subject to further review.

Failure to request a hearing within thirty (30) days of the date of the Program Manager's final written decision shall constitute a waiver of the right to appeal. The entire final decision is considered resolved and not subject to further review when no appeal hearing has been requested within the thirty (30) day period.

**Appeal Hearing Process**

Within thirty (30) days following the city's written notification, notice of the appeal shall be filed with the clerk of the City Council ("clerk"). The clerk shall notify the Tennessee Secretary of State's Administrative Procedures Division ("APD") that an appeal has been filed. The APD is authorized to assign an ALJ to conduct a fair and impartial hearing and adjudicate the employee's appeal.

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

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

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

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

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

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

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

14.18 **Light Duty**

To establish a city-wide policy regarding the assignment of light duty to employees who are recovering from a work-related and/or non-work-related injury or illness. Light duty assignments under this policy are specially created temporary job assignments for

employees injured or otherwise incapacitated. Such light duty assignments are temporary assignments only, are not vacant or permanent positions within the city's workforce, and are not available to employees on a permanent basis under any circumstances. The availability of such light duty assignments depends on the employee's restrictions and the business needs of the city's departments. The existence of this light duty policy in no way guarantees that light duty will be available at any given time, or for any particular employee who requests it and an assignment of light duty is not a right of employment.

The department head or designee will work in conjunction with Risk Management to determine if a light duty assignment is available, and whether the employee is eligible for work assignment. The decision regarding light duty assignment is not subject to grievance or appeal. This provision shall not apply to **sworn personnel** of the Fire and Police Departments.

14.18A **Procedures**

LIGHT DUTY PLACEMENT FOR WORK-RELATED INJURIES

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

The employee shall be responsible for communicating all medical restrictions to their department designee. The employee must comply with all instructions or recommendations and keep all appointments as stated in the city's injury-on-duty policy. The employee's department designee and Program Assistant will evaluate the medical restrictions to determine if they can accommodate the restrictions and place the employee in a position that meets the limitations recommended by the Medical Provider.

Any employee assigned to light duty will receive their normal weekly or bi-weekly check if the employee works the complete pay period associated with the light duty assignment (refer to the injury-on-duty policy).

If the employee is placed on light duty outside their normal work area, the reporting supervisor is responsible for ensuring that actual hours worked, PTO taken, etc., are reported to the employee's supervisor and/Program Assistant.

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

Employees released to work light duty following a work-related injury may choose to remain off work under the Family Medical Leave Act ("FMLA"), if eligible, and may

choose to be on FMLA up to the entitlement of twelve (12) weeks. If an employee chooses to take FMLA, they may not be entitled to IOD pay. FMLA leave will also run concurrently with Injury on Duty (IOD) leave. FMLA leave will also run concurrently with the employee's PTO.

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

### 14.18B **Duration**

Light duty, as defined in this policy, is temporary, not indefinite. Light duty will be reviewed every six (6) months. If the employee has not sufficiently recovered to return to their pre-injury/illness position within this time period, the city will review the employee's restrictions and engage the employee in a discussion about how the city may help the employee perform their job. The review will take place to assess the possibility of the employee returning to regular duty within a reasonable period of time., light duty may be extended beyond six (6) months on a case by case basis in collaboration with the Department Head and the Risk Management Department.

### 14.18C **Non-Work-Related Injuries**

LIGHT DUTY PLACEMENT FOR NON-WORK-RELATED INJURIES

If the employee has been issued restrictions by a personal physician, the employee's department designee and Human Resources will evaluate the restrictions to determine if they can accommodate the restrictions and place the employee in a position that meets the restrictions recommended by their personal physician.

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

## 14.19 **Return to Work**

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

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

In collaboration with the Risk Officer, the Department Head, and Program Assistant will work as a team to ensure fairness and consistency.

14.19A **Return to Work IOD**

If the supervisor believes that the employee's condition could affect the safety of the employee or others, the supervisor will contact the department designee and the Program Assistant regarding the situation immediately or as soon as reasonable.

14.20 **Firefighter Cancer Presumptions**

Concerning impairment in the course of employment, a presumption is hereby established that any impairment of health of a Firefighter caused by the disease of cancer resulting in hospitalization, medical treatment, or any disability, shall be presumed (unless the contrary be shown by competent medical evidence) to have occurred or to be due to accidental injury suffered in the course of employment. Any such condition or impairment of health which results in death shall be presumed (unless the contrary be shown by competent medical evidence) to be a loss of life in the line of duty, and to have been in the line and course of employment, and in the actual discharge of the duties of their position, or the sustaining of personal injuries by external and violent means or by accident in the course of employment and in the line of duty. In order to be eligible for the cancer presumption set forth in this policy, the Firefighter shall have successfully passed a pre-hire physical examination prior to such claimed disability and annual screening, and such examination fails to reveal any evidence of the condition of the claimed cancer.

For the purposes of this section, the term Firefighter shall mean any individual employed by Chattanooga Fire Department that combats and prevents fires, performs emergency medical services, carries out rescue operations, handles/cleanses/repairs soiled structural firefighting gear and equipment, or performs other necessary duties on fire scenes.

# City of Chattanooga Employee Information Guide

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## 15.1 Driving Records

Any employee who is required as an employment condition to possess and maintain a valid driver's or commercial driver's license must immediately, before reporting for duty the next workday, inform their supervisor if their license becomes denied, expired, restricted, suspended, or revoked any time during employment with the City. The Human Resources Department may conduct periodic reviews of employees' driving records.

## 15.2 Vehicle Use Policy

The Vehicle Use Policy establishes guidelines and procedures for all take home City Vehicles used by City personnel regarding after hours use of City Vehicles and employee reimbursements for business use of their private vehicles while on City business. This applies to all City employees unless otherwise noted within the policy. It is the intent of the City to provide effective and efficient usage of all City Vehicles and, at the same time, provide the most effective and efficient service possible at all times. To facilitate this process, authorized individuals may be granted the use of City Vehicles for transportation

to and from their place of residence and their workplace or in response to problems during other than normal work hours.

15.2A **General Vehicle Use**

SAFETY AND SECURITY

1. Employees must exercise caution, avoid distracted driving, and utilize defensive driving tactics while operating a City Vehicle.
2. To reduce distracted driving, drivers of City vehicles must use a single button call feature and hands-free calling while driving. Drivers without these features must stop City vehicles in a safe location prior to using a device unless responding to an emergency.
3. Use of tobacco, of any kind, is prohibited in all City owned or leased vehicles. This includes vaping and e-cigarettes.
4. Employees found to have been driving under the influence in a City vehicle at any time, are subject to disciplinary action, up to and including termination.
5. Prior to operating any department vehicle, operators must observe each side of the vehicle to ensure there are no obstructions and to inspect the vehicle.
6. Whenever possible, drivers of City vehicles shall avoid backing out of a parking space. When parking, drivers should back into parking spaces or pull forward through to an empty space directly in front. This has proven to minimize the risk of vehicle accidents.

DRIVER QUALIFICATIONS

Prior to operating any City vehicle, drivers must have the appropriate current, valid driver's license and endorsements. Supervisors must ensure that every City vehicle driver has a valid driver's license in the employee's personnel file at HR.

City vehicles will only be operated by employees authorized by their supervisor or department designee.

Each qualified City employee who operates a City vehicle for take-home assignments shall maintain minimum automobile insurance, as required by Tennessee law.

15.2B **Driver Responsibilities**

1. All City policies and procedures are in effect while operating a City vehicle. Drivers must always exercise reasonable caution and care during operation.
2. Unattended vehicles will be secured at all times. Vehicles should never be left running while unattended unless involved in an emergency.
3. Prior to operating, drivers will ensure vehicles are maintained, safe to operate, and clean. Vehicles requiring maintenance must be reported to Fleet immediately, prior to use. Employees will wash and clean vehicles as needed or directed.
4. Drivers must adhere to all local, state, and federal laws. No special privileges will be assumed operating a City vehicle.
5. City vehicles must be operated according to manufacturer's recommendations.

6. Drivers must immediately notify their supervisor if they discover damage to a vehicle. Supervisors will document the incident and report the damage to Fleet.
7. Drivers involved in a vehicle accident must contact their supervisor immediately. The supervisor will contact the City Attorney's Office to follow post-accident protocols.
8. City vehicles will not be used for transportation to or from businesses where the primary purpose is serving or sale of alcohol. City vehicles will never be used for the transport of alcohol or drugs prior to authorization.
9. Drivers may not transport non-City employees unless authorized by their supervisor, for business purposes, during an emergency, or unless additionally insured and authorized use of a take-home vehicle.
10. Drivers will not add, remove, or modify equipment on any City vehicle. All maintenance, modifications, and installation of equipment must be authorized.
11. Drivers will always take the most direct or efficient route to and from their destinations.
12. Drivers will notify their supervisor prior to the start of their next shift if the status of their driver's license or endorsements change.
13. Vehicle operators are responsible for the conduct of all other vehicle occupants.
14. The City assumes no responsibility or obligation to pay for any citations issued for a moving or parking violation(s). All fines and costs associated with the citation are the responsibility of the City employee.
15. The City driver is responsible for securing cargo, materials, and/ or tools; and for covering all utility vehicles that are used to transport items such as brush, trash, gravel, sand, furniture, etc., with a tarpaulin or some other acceptable covering. This protective covering must be placed completely over the truck's bed/cargo and properly secured prior to travel. Prior to leaving a job site, City drivers shall check the City vehicle for debris such as mud or gravel between tandem axles and dual tires/wheels, on tailgate, and on any other surface that debris could accumulate. All debris found shall be removed.
16. A City driver shall not exceed the City vehicle occupancy rating or load rating.
17. City vehicles are provided to conduct official City business. Use of a City vehicle incidental to City business for personal reasons may constitute taxable income and be subject to Federal/State income taxes and applicable Social Security/Medicare taxes. Under Internal Revenue Code (IRC) Section 61(a), any fringe benefit provided to an employee in connection with the performance of service is considered income, unless a specific exclusion applies. Although City vehicles are not to be used for personal business, incidental use is sometimes unavoidable. Misuse of a City vehicle occurs when it is driven or used other than in the conduct of City business, which includes carrying any persons not directly involved with official City business. The City's Take-Home Vehicle Use Policy applies to incidental use of City vehicles for employees who are assigned a City take-home vehicle where the users are already subject to fringe benefits of incidental use. Drivers must receive approval from their supervisor prior to any incidental use of a City vehicle.

18. Designated supervisors will authorize operators to fuel vehicles. No operator will use another employee's identification to fuel a vehicle.

## 15.2C **Seat Belt Policy**

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

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

1. In addition to following all traffic regulations, all employees and their passengers are required to use a seat belt when traveling in any vehicle while in the course of conducting city business.
2. Seat belts must be properly worn as designed by the manufacturer. A seat belt functions to reduce the likelihood of death or serious injury in a traffic collision by reducing the force of secondary impacts with interior strike hazards, by preventing occupants being ejected from the vehicle in a crash or if the vehicle rolls over therefore a seatbelt must be worn properly, meaning shoulder belts must be worn across the shoulder (not under the arm or behind the back) and lap belts across the lap (not behind or under the occupant).
3. Seat belts are required by all occupants at all times when the vehicle is in motion. Wearing a seat belt is state law. Both Driver and Passenger shall be cited for violation if the vehicle is in motion and the passenger is found to be not properly wearing a seatbelt.
4. The use of seat belts is to be considered a condition of employment. Failure to abide by state law and this policy will be considered a breach of that condition of employment, and subject employees in violation to disciplinary action, including suspension or termination.

## 15.2D **Distracted Driving/Electronic Devices**

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

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

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

3. Employees who are faced with an emergency, such as a traffic accident or car trouble, or in a situation involving sworn fire or police personnel responding to or assisting with an emergency situation may find it necessary to make a phone call while driving. Such occurrences will be reviewed on a case-by-case basis.

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

5. No Employee shall utilize applications while driving. This includes playing games, opening, using or manipulating 'apps' of any kind. Opening documents, reading emails, writing new or response emails, viewing photos, viewing videos, or downloading any data. Additionally, included are 'browsing' or 'surfing' the internet, music files, photo or video albums, or altering menus or data collections stored inside the phone.

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

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

15.2E **City Driver Fit for Duty**

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

Employees must report to their supervisor the use of any prescribed or over-the-counter medication that may potentially impair their mental or physical abilities to perform the functions of their job safely and effectively. Notice must be provided to the City's Occupational Physician who will work with the individual's prescribing physician to 102 evaluate whether the medication affects the individual's ability to safely perform any essential job function.

Supervisors who believe there are signs of physical or mental impairment to the ability to safely operate a vehicle should refer to the Fit for Duty policy for further information; or contact the Manager of Wellness and Occupational Health at 423-643-6441.

15.2F **Engine Idling**

Engine idling can often be avoided. Failure to reduce engine idling unnecessarily increases engine wear and fuel use. Operators of City vehicles must turn the ignition off when the vehicle is stopped at a destination to prevent engine idling.

Vehicles may idle when:

1. Performing tasks or during an emergency;
2. Stopped in traffic;
3. Required for proper vehicle operation or maintenance in accordance with the manufacturer's recommendations;
4. Ambient temperatures are lower than 40 or greater than 90 degrees Fahrenheit, during breaks.
5. Temperatures are below 40 degrees for the purpose of reaching engine operating temperatures or defrosting for no more than ten minutes while occupied.
6. Police vehicles may find it necessary to idle to maintain power for dashboard cameras, laptops, or ambient temperatures while detaining a suspect, or securing a K-9.
7. Fire vehicles may find it necessary to idle to maintain power for laptops, medical equipment, pumps, or other firefighting equipment.

### 15.2G **City Vehicle Assignments**

Supervisors, or the department designee, will make vehicle assignments according to their department's policies and needs. No City vehicle assignment can be challenged by a grievance. This includes take-home vehicles.

Department heads may temporarily assign a commuting City vehicle to an employee during a disaster, inclement weather or other such circumstances for which the employee may need to respond or carry specialized equipment

### 15.3 **Take Home Vehicle Use**

ELIGIBILITY

1. Take home vehicles are used for commuting to and from the employee's residence to a work site. Eligibility is limited to employees living within a seventy-five (75) mile radius of their primary work location. The Mayor must authorize a take-home vehicle for any employee living outside the radius.
2. Take-home vehicles must serve the interests of the City and meet the business transportation needs of the employee.
3. Eligibility does not guarantee a take-home vehicle assignment.
4. Employees with take-home vehicles are subject to being called in for emergencies.
5. An employee may not be eligible for a take-home vehicle if the employee's home does not project a positive image of the City of Chattanooga or if the employee has demonstrated a poor driving history.
6. Employees living outside the City of Chattanooga City limits will pay a weekly mileage reimbursement to the City through payroll deduction calculated at a rate of $0.30 per mile, using total round-trip miles, five days per week, from the nearest

route at the City of Chattanooga City Limits to the employee's permanent home address.

7. Take-home vehicles may be assigned to employees occupying positions where there is a potential for imminent danger, property damage or loss, or interruption of City services if the employee could not respond quickly; or when the employee may be frequently required to report directly to a location other than their normal reporting location after hours and special equipment is required.
8. Other circumstances where use of a take home vehicle is deemed beneficial to the City may be approved by the Department head or Mayor.

PROGRAM MANAGEMENT

1. Department heads are responsible for implementing take-home vehicle programs in their own departments and authorizing take-home vehicles to individual employees. Written programs must be submitted to both the Fleet Division and Human Resources Department.
2. Department heads must review take home vehicle use and policies annually.
3. Departments are responsible for providing training on this policy, department specific take-home vehicle policy, and defensive driving to its employees annually.
4. Department heads may assign employees temporary commuting vehicles for rotational, on-call coverage, subject to reasonable schedules, policies, and procedures. Such assignments do not require the employee to meet all of the take-home vehicle requirements such as insurance and mileage; however, the employee must live within the City of Chattanooga City Limits and use of the vehicles are restricted to City of Chattanooga City Limits while on-call.
5. Department heads or their designees are responsible for administering the program, assigning vehicles, enforcing policies, and monitoring take-home vehicle use in accordance with these general City-wide guidelines and department specific programs.
6. Use of a City take-home vehicle may be terminated at any time at the sole discretion of the Department Head or designee. This is not subject to grievance. Following an employee's promotion, demotion, or transfer, department heads will re-evaluate the need for the employee's take-home vehicle.
7. When an employee has authorized use of a take-home City vehicle, the Department head or designee will notify the individual responsible for the City's Fleet. The Department is responsible for maintaining the employee's additional insurance documents, assigned vehicle information, contact information, work assignment, title, permanent reporting location, and current home address. The Department Head will notify the Chief Financial Officer to report the authorization and record appropriately any reimbursements or IRS documents. Employees are responsible for notifying their Department head or designee of any changes in their records.

DRIVER RESPONSIBILITIES

Employees operating a take-home vehicle must follow all City Vehicle Use guidelines, Vehicle Accident Prevention guidelines, and when applicable Commercial Motor Vehicle Program guidelines.

While operating a take home vehicle, employees will respond to calls and provide public assistance Failure to comply is grounds for loss of a take-home vehicle.

Incidental use and transporting of non-employees while operating a take home vehicle is acceptable during the employee's commute, while on duty, responding to an event, and while on-call.

Sworn police personnel may use take-home vehicles during second jobs requiring uniformed services with approval from their supervisor.

City take-home vehicle drivers, other than non-assigned rotational assignments for less than a week at a time and temporary assignments, shall maintain appropriate liability insurance coverage for the City vehicle, as required by City Resolution Numbers 12262 and 17668, and as set forth in Tennessee Code Annotated (T.C.A.) Section 29-20-403. As of July 1, 2017, the current required coverage amounts under T.C.A. Section 29-20-403 are $300,000/$700,000 in liability coverage and $100,000 in property damage coverage.

Proof of valid insurance and authorization for a take home vehicle shall be placed in the employee's personnel file at HR and a copy shall be forwarded to the individual responsible for the City's fleet. Failure to maintain liability insurance, as required by T.C.A. Section 29-20-403, for take-home vehicles will result in suspension or termination of use of the City take-home vehicle.

## 15.4 Vehicle Accident Prevention Policy

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

This policy applies to all vehicle operators and vehicles owned or managed by the City of Chattanooga. Departments may evoke stricter rules to enforce more specific or stringent accident policies upon approval of Human Resources.

### 15.4A Definitions

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

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

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

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

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

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

**Property Damage**: is damage to or the destruction of public or private property, caused by a City employee who is not the owner. Property damage caused by a City employee is generally categorized by its cause: 1. Neglect (including oversight and human error), and 2. Intentional damage (intentional property damage is often, but not always, malicious). All property damage claims must be classified under the definitions of "Preventable Accident" or "Minor Preventable Accident" or "Non-Preventable Accident."

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

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

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

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

15.4B **Employer Responsibilities**

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

1. Ensure that all City drivers are informed of this policy, as well as the Vehicle Use Policy, and when applicable the Commercial Motor Vehicle Program. City drivers shall sign a statement acknowledging that they have received a thorough review of the policy. The Department shall maintain a copy of the policy for reference.
2. Ensure the safe maintenance and operation of all City vehicles.
3. Ensure that all City drivers are trained in defensive driving principles and in the safe operation of City vehicles.

4. Ensure that supervisors are trained in the detection of alcohol and drug impairment.
5. Enforce the provisions of this vehicle accident prevention policy.
6. Ensure that thorough and timely accident investigations are conducted and reported.
7. Provide a process for the formal review of vehicle accidents to determine preventability.
8. Develop safe driving behaviors through prompt corrective actions.
9. Ensure that safety and maintenance are considered when purchasing vehicles and equipment.

15.4C **Supervisor Responsibilities**

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

1. Supervisors shall enforce all the provisions of this vehicle accident prevention policy, vehicle use policy, and when applicable the Commercial Motor Vehicle Program.
2. Supervisors shall routinely monitor the driving of each City driver while performing job related driving responsibilities.
3. Supervisors shall review driving records as a part of employee performance evaluations.
4. Supervisors shall report accidents as indicated in this policy.
5. Supervisors shall ensure that employees attend required defensive driver training.

15.4D **Driver Responsibilities**

Each employee driving vehicles for the City of Chattanooga must adhere to this policy as well as the Vehicle Use Policy, and when applicable the Commercial Motor Vehicle Program.

15.4E **Accident Reporting Requirements**

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

Failure to report the vehicle accident immediately and/or prior to leaving the scene of the vehicle accident will be considered a willful violation of City Policy and the City driver shall be disciplined under the provisions outlined within the Employee Information this guide.

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

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

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

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

1. Assist injured persons as far as you are able. Do not move seriously injured persons unless necessary for their protection against further injury. When reporting the accident to police, inform them of any injuries;
2. Call supervisor and/or police immediately;
3. Do not leave the scene of an accident;
4. Utilize traffic control devices, if available;
5. Move the City vehicle out of the roadway if no serious injuries and/or the vehicle is operable;
6. If the accident involves damage to an unattended vehicle or a fixed object, immediately notify supervisor, contact the police for a traffic report; and;
7. Take pictures of the accident whenever possible.

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

An accident report shall be completed by the supervisor, Occupational Safety Specialist, or designated safety representative before the City driver leaves work for that day.

This report along with any accident scene photos, witness statements, diagrams, pre-trip inspection sheets and other supporting documentation, in conjunction with a police report complaint number, or completed Police report, should be given to the Department Head. The Department Head or designee must notify the Director of Safety, Compliance, & Risk Management, and the Risk Analyst of all vehicle-related accidents or major property damage.

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

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

15.4F **Accident Preventability Determination**

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

1. The selection process of the board members will be determined by the Department Head or designee.
2. The board should serve for a set term as determined by the Department Head or designee.

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

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

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

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

A City driver who contests the Accident Review Board's findings can appeal through a written request to the Human Resource's Safety and Compliance Officer within ten (10) calendar days of being notified of the board's findings.

If the City driver contests the decision of the Human Resources Safety, Compliance, & Risk Management Division decision, then the city's grievance and appeal process may be utilized.

15.4G **Preventability and Determination Guide**

This guide provides information on accident types and their respective preventability ruling as cited in the National Safety Council's Guideline for Determining Preventability.

CITY VEHICLE/EQUIPMENT STRUCK IN REAR BY OTHER VEHICLE/ EQUIPMENT

**Non-preventable if**:

1. Driver's vehicle was legally and properly parked.
2. Driver was proceeding in own lane of traffic at a safe and lawful speed.
3. Driver was stopped in traffic due to existing conditions or was stopped in compliance with traffic signs or signals or the directions of a police officer or other person.
4. Driver was in the proper lane, stopped and waiting to make a turn.

**Preventable if**:

1. Driver was passing slower traffic near intersection and had to make a sudden stop.
2. Driver made a sudden stop to park, load or unload.
3. Driver's vehicle was improperly parked.
4. Driver rolled back into the vehicle behind.

CITY VEHICLE/EQUIPMENT STRUCK WHILE PARKED

**Non-preventable if**:

1. Driver was properly parked in a location where parking was permitted.
2. Vehicle was protected by emergency warning devices as required by federal and state regulations, or if the driver was in process of setting out or retrieving signals.

ACCIDENTS AT INTERSECTIONS

**Preventable if**:

1. Driver failed to control speed so that they could stop within the available sight distance.
2. Driver failed to check cross-traffic and wait for it to clear before entering the intersection.
3. Driver pulled out from side-street in the face of oncoming traffic.
4. Driver collided with a person, vehicle or object while making a right or left turn.
5. Driver, going straight through an intersection, collided with another vehicle making a turn.

CITY VEHICLE/EQUIPMENT STRIKES OTHER VEHICLE/ EQUIPMENT IN REAR

**Preventable if**:

1. Driver failed to maintain a safe following distance and keep the vehicle under control.
2. Driver failed to stay alert to traffic conditions and note slowdown of traffic ahead.
3. Driver failed to ascertain whether the vehicle ahead was moving slowly or the driver failed to stop slowing down for any reason when required.
4. Driver misjudged the rate at which the vehicle was overtaking vehicle ahead.
5. Driver came too close to the car ahead before pulling out to pass.
6. Driver failed to wait for the car ahead to move into the clear before starting up.
7. Driver failed to leave sufficient room for passing vehicle to get safely back in line.

SIDESWIPE AND HEAD-ON COLLISIONS

**Preventable if**:

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

CITY EMERGENCY RESPONSE

**Preventable if**:

1. Driver failed to engage lights and/or sirens as mandated by the department/ division.
2. Driver did not proceed with through traffic at a reduced speed and under guidelines taught by the department/division. Non-Preventable if: Driver's vehicle is struck because of an opposing driver's failure to yield the right-of- way in accordance with the 'Move Over Law' TCA 55-8-132.

BACKING ACCIDENTS

**Preventable if**:

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

ACCIDENTS INVOLVING TRAIN

**Preventable if**:

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

ACCIDENTS THAT OCCUR WHILE PASSING

**Preventable if**:

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

ACCIDENTS THAT OCCUR WHILE BEING PASSED

**Preventable if**: Driver failed to stay in own lane, or hold, or reduce speed to permit safe passing.

ACCIDENTS THAT OCCUR WHILE ENTERING TRAFFIC STREAM

**Preventable if**:

1. Driver failed to signal when pulling out from the curb.
2. Driver failed to check traffic before pulling out from the curb.
3. Driver failed to look back to check traffic if driver was in position where mirrors did not show traffic conditions.
4. Driver attempted to pull out in a manner, which forces other vehicles(s) to change speed or direction.
5. Driver failed to make a full stop before entering from a side street, alley or driveway.
6. Driver failed to make a full stop before crossing sidewalk.
7. Driver failed to yield right of way to approaching traffic.

PEDESTRIAN ACCIDENTS

**Preventable if**:

1. Driver did not reduce speed in an area of heavy pedestrian traffic.
2. Driver was not prepared to stop.
3. Driver failed to yield right of way to pedestrian.

ACCIDENTS RELATED TO MECHANICAL DEFECTS

**Preventable if**:

1. Defect was of a type which the driver should have detected in pre-trip inspection of the vehicle.
2. Defect was a type which the driver should have detected during the normal operation of the vehicle.

GENERAL ACCIDENTS

**Preventable if**:

1. Driver was not operating at a speed consistent with the existing conditions of the road, weather, and traffic.
2. Driver failed to control speed so that vehicle could stop within assured clear distance.
3. Driver misjudged available clearance, regardless of overhead signage.

4. Driver failed to yield right of way to avoid accident
5. Driver failed to accurately observe existing conditions and drive in accordance with those conditions. Including weather or environmental conditions present.
6. Driver failed to yield right of way to avoid an accident.
7. Driver was inattentive.
8. Driver was under the influence of alcohol or drugs.
9. Driver was in violation of City policy, the regulations of any federal or state regulatory agency or any applicable traffic laws or ordinances.

PROPERTY DAMAGE

**Preventable if**: All property damage claims must be classified under the definitions of "Preventable Accident" or "Minor Preventable Accident" or "Non-Preventable Accident".

SWORN PERSONNEL EMERGENCY RESPONSE

**Preventable if**:

1. Sirens and/or Lights not engaged while responding to an emergency.
2. Driver failed to use due caution while responding to an emergency or is in conflict with the EVOC or Vanessa Kay Free Act.

15.4H **Corrective Actions**

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

Occurrence of First (1st) preventable accident and/or moving traffic violation conviction:

1. Letter of reprimand to personnel file

Occurrence of Second (2nd) preventable accident and/or moving traffic violation conviction within any thirty-six (36) consecutive month period:

2. Letter of reprimand to personnel file and;
3. Suspension for five (5) days.

Occurrence of Third (3) preventable accident and/or moving traffic violation conviction within any thirty-six (36) consecutive month period:

1. Letter of reprimand to personnel file and;
2. Suspension for fifteen (15) days and demotion to a non-driving position; or
3. Termination of employment.

Any preventable accident caused by the City driver for which an officer issues a citation for speeding, reckless driving, disregard of appropriate state driving regulations, and/or careless/negligent conduct will be subject to a special hearing by the Accident Review Board. Upon receipt of findings, appropriate disciplinary action up to and including dismissal may be recommended by the division director. In those instances where demotion or dismissal is recommended, the division director will make the appropriate recommendation to the Department Head for approval.

Determination of a City driver's accident timeline for the purpose of corrective actions shall be measured from the date of the accident under review backwards thirty-six (36) months to determine second and third accident status.

Notwithstanding the provisions set forth above, a City driver whose driving record shows repeated preventable accidents shall be subject to dismissal based on the City driver's complete driving record.

### 15.4I **Rights of Grievance and Appeal**

Nothing contained in this policy shall constitute a waiver of any rights or remedies of the City of Chattanooga, its officers, agents, or employees under any laws, ordinances, or regulations of the State of Tennessee or the City of Chattanooga.

City driver disciplined in accordance with the foregoing defined "Vehicle Accident Prevention Policy" retain the right as specified in this Guide to present a grievance in writing and appeal the disposition of their case.

### 15.5 **Procedures Following an Accident**

In the event of a City vehicle accident or property damage occurs, the following guidelines shall be used. Specific questions relating to accident claims may be answered by contacting the City's Claims and Risk Analyst.

Immediately following a vehicle accident/property damage/physical damage the department should follow the procedures for On Scene and Off Scene below:

ON SCENE

1. The Department should photograph the scene, vehicles (multiple POV), license plates, street signs, and other relevant images.
2. Obtain the police report number from responding Traffic Officer
3. Obtain written statements from all involved employees including witnesses.

OFF SCENE

1. The Department should complete a vehicle accident report to include items such as:
    - Driver/Employee information
    - A summary of accident

- Photos
- Witness Statements

E-mail completed Accident Report to:

- City Claims and Risk Analyst
- FleetServices@Chattanooga.gov
- Safety & Compliance Coordinator
- Department Head or designee.

## 15.6 Commercial Driver License (CDL) Driver Qualifications

All City Drivers who possess a Commercial Drivers' License (CDL) as a requirement of their job description shall comply with the City's "Commercial Motor Vehicle Program" policy.

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

## 15.6A Commercial Vehicles

1. All CDL Holders operating for the City of Chattanooga must abide by the Commercial Motor Vehicle Program.
2. When operating a commercial vehicle, operators must avoid traversing private property without authorization from their supervisor.
3. Air tanks on commercial vehicles must be drained by the driver daily.
4. Commercial vehicles must be inspected and documented by the driver using a pre- and post-trip inspection form daily.

## 15.6B Department Responsibilities

1. Supervisors will periodically check the cleanliness, maintenance, and use of City vehicles in their operation.
2. Supervisors will review monthly fuel and maintenance reports and report problems or anomalies to the Department head.
3. Departments may develop and fund a Safe Driver Awards Program for their respective operations. Each Department has an opportunity to demonstrate appreciation to City drivers and heavy equipment operators who have performed jobs for a predetermined period of time without a City vehicle accident or property damage. A Safe Driver Awards Program is optional and may be created or removed by the Department at any time. Department Heads or designee will be responsible for developing their own program. The program must be reviewed and approved by the Human Resources Safety Division prior to implementation. Eligibility for Safe Driver Award Programs must minimally incorporate both:
    a. Employee Vehicle/equipment accident history;

b. Employee safety violations related to this policy.

4. Each Department must create and maintain a Driver file for each employee who is authorized to drive a city vehicle as part of their regular job duties. A City Driver's file may be electronic or paper copy, and must be safe guarded with limited user access. These files and processes are subject to audits and may be used for internal investigations, compliance, or open records requests. At a minimum, the file shall contain:

    a. A legible copy of the employee's current, valid state driver's license;
    b. The job description or other document which outlines the type of City vehicle the City driver is authorized to operate;
    c. A signed statement from the employee acknowledging receipt of;
        - this policy,
        - the Vehicle Use Policy, and when applicable
        - the Commercial Motor Vehicle Program;
    d. A defensive driving certificate if available;
    e. A copy of the City driver vehicle accident reports including the determination of preventability;
    f. A copy of all safe driving awards or other driving recognitions if available;
    g. A copy of any disciplinary action associated with failure to follow this policy.
    h. Copies of specific training documentation related to this policy or safe operation of City equipment

15.6C **Defensive Driver Training**

City drivers shall complete a defensive driver training course and repeat this training at least once every three (3) years. New City drivers and employees with job duties that include driving a City vehicle, shall complete a defensive driver training course at the first available course date after the commencement of employment. City drivers who are involved in a preventable vehicle accident will be required to attend defensive driver training. This course may be offered by the department but is also available through the Human Resources Safety & Compliance Coordinator.

15.6D **City Vehicle Inspections**

All City vehicles shall undergo preventative maintenance as scheduled.

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

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

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

3. Presence of fluids underneath the City vehicles;

4. Proper brake operation;
5. Lights and all visual warning devices are operational;
6. Audible warning devices are operational;
7. Windshield and wipers clean and in good repair;
8. Tires in good repair;
9. Steering mechanism;
10. Mirrors adjusted properly and in good repair;
11. Functioning dash warning lights;
12. Presence of safety-related equipment (fire extinguisher, safety triangles, etc.).

The City driver shall assure that proper fluid levels are maintained in the City vehicle. These items shall be checked each time fuel is added to the City vehicle. Departments/divisions may require more detailed daily inspections for City vehicles. Air tanks for all City vehicles equipped with air brakes shall be drained at the end of each day of service. A City driver whose City vehicle is towing a trailer or other equipment shall ensure that the trailer is securely latched, safety chains are properly attached, and auxiliary lighting functioning. City drivers shall report to their immediate supervisor and/or Fleet Maintenance all problems or mechanical defects affecting City vehicles. No City vehicle shall be abandoned or driven in for repairs until arrangements are made for the City vehicle to be returned to the fleet maintenance garage.

# City of Chattanooga Employee Information Guide

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| **Policy Sections:**<br>16.1 General Policy<br>16.1 A Consent and Compliance<br>16.1 B Definitions<br>16.2 Drug Testing<br>16.3 Alcohol Testing<br>16.4 Consequences of a Confirmed and/or Verified Positive Drug or Alcohol Test Result<br>16.5 Exceptions<br>16.6 Education and Training<br>16.7 Commercial Motor Vehicle (CDL) Drivers Drug and Alcohol Policy<br>16.7A Policy, Provisions and Implementation<br>16.7B Definitions<br>16.7C Alcohol Prohibitions<br>16.7D Drug Prohibitions<br>16.7E Circumstances for Testing<br>16.7F Refusal to Test<br>16.7G Alcohol Testing Procedures<br>16.7H Drug Testing Procedures<br>16.7I Laboratory Analysis<br>16.7J Confidentiality/Recordkeeping<br>16.7K Driver Assistance<br>16.7L Self-Identification Program<br>16.7M Discipline | | Effective: 1/31/2023<br>Supersedes: |

## 16.1 General Policy

The City of Chattanooga ("City') recognizes that the use and abuse of drugs and alcohol in today's society is a serious problem that may involve the workplace. It is the intent of the City to provide all employees with a safe and secure workplace in which each person can perform their duties in an environment that promotes individual health and workplace efficiency. Employees of City are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, City has adopted this drug and alcohol testing policy. The City and certain employees who drive commercial motor vehicles are subject to the requirements of federal statutes and implementing regulations issued by the Federal Highway Administration of the U.S. Department of Transportation. However, certain City employees who perform safety-sensitive functions are not covered by the Federal provisions. In addition, the City has an interest in maintaining the efficiency, productivity and well-being of employees who do not perform safety-sensitive functions.

This policy does not govern or apply to employees who are subject to testing as commercial motor vehicle operators under the foregoing federal law and regulations. These employees are governed by a separate policy enacted pursuant to that legislation. However, such employees may be tested as authorized by this policy if the circumstances giving rise to such testing do not arise from the employee's operation of a commercial motor vehicle.

It is the policy of the City that the use of illegal drugs by its employees and impairment in the workplace due to drugs and/or alcohol are prohibited and will not be tolerated. Engaging in prohibited and/or illegal conduct shall result in disciplinary action up to and including immediate termination. Additionally, employees are subject to disciplinary action up to and including immediate termination for the unlawful manufacture, distribution, dispensation, possession, concealment or sale of alcohol or drugs while on duty, on City property, in City Vehicles, during breaks or at lunch. Prohibited and/or illegal conduct includes but is not limited to:

1. Being on duty or performing work in or on City property while under the influence of illegal drugs and/or alcohol;
2. Engaging in the manufacture, sale, distribution, use, or unauthorized possession of illegal drugs at any time and of alcohol while on duty or while in or on City property;
3. Refusing or failing a drug and/or alcohol test administered under this policy;
4. Providing an adulterated, altered, or substituted specimen for testing;
5. Use of alcohol within four (4) hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
6. Use of alcohol or drugs within eight (8) hours following an accident (incident) if the employee's involvement has not been discounted as a contributing factor in the accident (incident) or until the employee has successfully completed drug and/or alcohol testing procedures.

The City also reserves the right to require return to duty and follow-up testing as a result of a condition of reinstatement or continued employment in conjunction with or following completion of an approved drug and/or alcohol treatment, counseling or rehabilitation program.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform their duties. It is the employee's responsibility to inform the proper supervisory personnel of their use of any legally prescribed medication that may create a safety hazard such as driving or 156 using dangerous equipment, or may otherwise affect the performance of their job, or may require an accommodation. However, for the safety of all employees, City may place persons using such prescription drugs in a less hazardous job assignment, provided such assignment is available, or place them on temporary medical leave until released as fit for duty by the prescribing physician.

In order to educate the employees about the dangers of drug and/or alcohol abuse, the City shall sponsor an information and education program for all employees and supervisors. Information will be provided on the signs and symptoms of drug and/or alcohol abuse; the effects of drug and/or alcohol abuse on an individual's health, work, and personal life; City's policy regarding drugs and/or alcohol; and the availability of counseling. The Chief Human Resources Officer, or their designee, has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All City property may be subject to inspection at any time without notice. There should be no expectation of privacy in such property. Property includes, but is not limited to, vehicles, desks, containers, files, computers, and lockers. Employee-assigned lockers that are locked by the employee are also subject to inspection by the employee's supervisor in the presence of the employee after reasonable advance notice to the employee, unless such notice is waived by the Mayor or their designee.

This policy applies to all City employees and applicants who have been given a conditional offer of employment from the City.

IMPLEMENTATION

It is the express intention of this policy for the City to be in compliance with the provisions of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration regulation, as promulgated in 49 CFR, Parts 40 and 382. The federal regulations are deemed to be the minimum standard for the City's policy and for the conduct of City employees in Safety-sensitive functions. If there is a conflict between this policy and the federal regulations, the federal regulations are deemed to have precedence and this policy is deemed to be subordinate to any conflicting regulation.

MODIFICATION OF POLICY

The Statement of Policy may be revised by the City at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy.

16.1 A **Consent and Compliance**

Before a drug and/or alcohol test is administered, employees and applicants will be asked to sign a consent form authorizing the test and permitting release of test results to the laboratory, MRO, and DER or their designee.

The consent form shall set forth the following information:

1. The procedure for confirming and verifying an initial positive test result;
2. The consequences of a verified positive test result; and
3. The consequences of refusing to undergo a drug and/or alcohol test.

The consent form also provides authorization for certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs or alcohol are present in the employee's system and to report the results of the findings to the City.

Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not their own or is adulterated shall be grounds for refusal to hire or for disciplinary action up to and including termination.

16.1 B **Definitions**

***Adulterated or Substituted Specimen***: A specimen that has been altered or substituted as evidenced by test results showing either a substance that does not contain normal constituents for that type of specimen or showing an abnormal concentration of an endogenous substance.

***Chain of Custody***: The methodology of tracking specified materials or substances for the purpose of maintaining control and accountability from initial collection to final disposition for all such materials or substances and providing accountability at each stage in the handling, testing, and storing specimens and reporting test results.

***Designated Employer Representative or DER***: The City Chief Human Resources Officer or same position known by another title, or their designee.

***Dilute Specimen***: A specimen with creatinine and specific gravity values that is lower than expected from human urine.

***Disabling Property Damage***: Disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

***Drug***: Any drug subject to testing pursuant to the Tennessee Drug Control Act of 1989, as amended.

***Drug Test or Test***: Any chemical, biological, or physical instrumental analysis administered by a certified laboratory for the purpose of determining the presence or absence of a drug or its metabolites or alcohol pursuant to regulations governing drugs or alcohol testing adopted by the United States Department of Transportation.

***Employee***: Any person who works for salary, wages, or other remuneration for the City.

***Employee Assistance Program (EAP)***: An established program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug or alcohol abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and follow-up services for employees who participate in the program or require monitoring after returning to work.

***Medical Review Officer or MRO***: A licensed physician, employed with or contracted by City, who has knowledge of substance abuse disorders, laboratory testing procedures and

chain of custody collection procedures; who verifies positive, confirmed test results; and who has the necessary medical training to interpret and evaluate an employee's positive test result in relation to the employee's medical history or any other relevant biomedical information.

***Reasonable-Suspicion Drug Testing***: An employer's determination of reasonable suspicion shall be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the employee, including without limitation the following:

1. The presence of recognizable physical symptoms of drug or alcohol use, e.g., slurred speech, bloodshot eyes, alcohol on breath, inability to stand or to walk a straight line;
2. Indications of the chronic and withdrawal effects of controlled substances;
3. Direct knowledge or observation of drug or alcohol use or possession, or possession of drug paraphernalia; or
4. Aberrant conduct or behavior that is so unusual that it warrants summoning a supervisor or other assistance.

***Safety-Sensitive Position***: A position in which drug or alcohol constitutes an immediate and direct threat to public health or safety, such as a position that requires the employee to carry a firearm, perform life-threatening procedures, work with confidential information or documents relating to criminal investigations or work with controlled substances, or a position in which momentary lapse of attention could result in injury or death to another person. Safety-sensitive positions include police officers, firefighters, positions requiring a Commercial Driver's License, Public Works positions involving the operation of heavy equipment, water/wastewater plant operators, all positions involving the construction and maintenance of electrical lines, teachers, and other positions having responsibility for the safety and care of children. A complete list of all safety-sensitive positions shall be maintained by the Chief Human Resources Officer or designee.

***Significant Environmental Damage***: Damage involving the release of a reportable quantity (RQ) of a Hazardous Material (HM) that requires contacting and reporting said release to the Local, State, and/or Federal authorities and/or any release to the Storm Water System.

***Specimen***: Tissue, fluid, or a product of the human body capable of revealing the presence of alcohol, drugs, or their metabolites.

***Split Specimen***: The procedure by which each urine specimen is divided in two and put into a primary specimen container and a secondary, or "split" specimen container. Only the primary specimen is opened and used for the initial screening and confirmation test. The split specimen container remains sealed and is stored at the testing laboratory.

16.2 **Drug Testing**

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test. Employees and applicants may be required to submit to drug testing under six (6) separate conditions:

PRE-EMPLOYMENT - All applicants for employee status in a safety-sensitive position who have received a conditional offer of employment with the City must take a drug test before receiving a final offer of employment.

TRANSFER - Employees transferring to a safety-sensitive position will undergo drug testing.

POST-ACCIDENT/POST-INCIDENT - As soon as practicable following any workplace accident/ incident, each of City's surviving drivers shall be tested for controlled substances who meets any one of the enumerated conditions below:

1. Who was performing Safety-Sensitive Functions with respect to the vehicle, if the accident involved the loss of human life; or
2. Who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident if the accident involved:
    a. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
    b. One or more motor vehicles incurring Disabling Property Damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Post-accident/incident testing shall be carried out as soon as practicable and shall not exceed eight (8) hours following the accident/incident. Urine collection for post-accident/incident) testing shall be monitored or observed by same-gender collection personnel at the established collection site(s).

In instances where post-accident/incident testing is to be performed, City reserves the right to direct the MRO to instruct the designated laboratory to perform testing on submitted urine specimens for possible illegal/illegitimate substances.

Any testing for additional substances listed under the Tennessee Drug Control Act of 1989 as amended shall be performed at the urinary cutoff level that is normally used for those specific substances by the laboratory selected.

POST-ACCIDENT/POST-INCIDENT FOR AMBULATORY EMPLOYEES - Following all workplace accidents/incidents where drug testing is to be performed, unless otherwise specified by the Department Head, any affected employees who are ambulatory will be taken by a supervisor or designated personnel of City to the designated urine specimen collection site as soon as practicable, but no later than eight (8) hours following the accident. In the event of an accident/incident occurring after regular work hours, the employee(s) will be taken to the (testing site) as soon as practicable, but no later than eight

(8) hours following the accident. No employee shall consume drugs prior to completing the post-accident/incident testing procedures.

No employee shall delay their appearance at the designated collection site(s) for post-accident/incident testing. Any unreasonable delay in providing specimens for drug testing shall be considered a refusal to cooperate with the substance abuse program of the City and shall result in administrative action up to and including termination of employment.

POST-ACCIDENT/POST-INCIDENT FOR INJURED EMPLOYEES - Any affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident/incident shall consent to the obtaining of specimens for drug testing by qualified, licensed attending medical personnel and consent to the testing of the specimens. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the MRO of City appropriate and necessary information or records that would indicate only whether or not specified prohibited drugs (and what amounts) were found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City or upon hiring following the implementation date.

Post-accident/post-incident urinary testing may be impossible for unconscious, seriously-injured, or hospitalized employees. If this is the case, the City shall require certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if drugs were present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure by medical personnel to do post-accident (post incident) testing within twelve (12) hours must be fully documented by the City.

REASONABLE SUSPICION DRUG - A drug test is required for any employee where there is “reasonable suspicion” to believe the employee is using or is under the influence of drugs and/or alcohol (as that term is defined in Section C above). A Department Head or supervisor who has received drug detection training that complies with DOT regulations must make the decision to test.

Supervisory personnel of the City making a determination to subject any employee to drug testing based on reasonable suspicion shall document their specific reasons and observations in writing to the Department Head or Administrator within twenty- four (24) hours of the decision to test and before the results of the urine drug tests are received by the department. Urine collection for reasonable suspicion testing shall be monitored or observed by same-gender collection personnel.

RANDOM - Safety-Sensitive employees are subject to unannounced random drug and alcohol testing. Just prior to the testing event, the Safety-Sensitive employee is notified of their selection and is provided enough time to stop performing their Safety- Sensitive Function and report to the testing location. (Failure to present at the testing location or interfering with the testing process can be considered a refusal-to-test). Random testing must be generated using a truly random selection process, with each Safety-Sensitive employee having an equal chance to be selected and tested at all times.

RETURN TO DUTY AND FOLLOW-UP - Any City employee who has violated the prohibited drug conduct standards must submit to a return to duty test. This provision in no way assures the employee of a right to continued employment by the City. The City retains the option to terminate an employee who fails to pass any required drug and/or alcohol test. Follow-up tests will be unannounced, and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to six (6) months following return to duty.

The employee will be required to pay for their return to duty and follow-up tests accordingly. Testing will also be performed on the employee returning from leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the testing.

PROHIBITED SUBSTANCES - Results of all drug testing will be reported to the MRO. If verified by the MRO, they will be reported to the DER. The following is a list of drugs for which tests will be routinely conducted (see Appendix B for cut-off levels):

- Marijuana;
- Cocaine;
- Opiates;
- Methamphetamine;
- Methadone;
- Amphetamines;
- Barbiturates;
- Benzodiazepines;
- Tricyclic antidepressant;
- Oxycodone; and
- Buprenorphine.

City may test for any additional substances listed under the Tennessee Drug Control Act of 1989, as amended, and/or any other illegal substances that may be designated by the City.

**COLLECTION PROCEDURES**

Testing will be accomplished as non-intrusively as possible. Affected employees, except in cases of random testing, will be taken by a supervisor or designated personnel of City to a drug test collection facility selected by City, where a urine sample will be taken from the employee in privacy. The urine sample will be immediately sealed by personnel overseeing the specimen collection after first being examined by personnel for signs of alteration, adulteration, or substitution. The sample will be placed in a secure mailing container. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by City to perform the analysis on collected urine samples.

Collection under direct observation (by a person of the same gender) with no advance notice will occur if:

1. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to the City that there was not an adequate medical explanation for the result; or
2. The MRO reports to the City that the original positive, adulterated, or substituted test result had to be canceled because the test of the split specimen could not be performed, or
3. The collector notes the specimen provided is not consistent with appearance, odor, temperature, or other normal parameters of normal, freshly donated human urine or notes the employee's conduct indicates an attempt to tamper with a specimen.
4. Additionally, the City will direct a collection under direct observation of an employee if the drug test is a return-to-duty or a follow-up test.

**DRUG TESTING LABORATORY STANDARDS AND PROCEDURES**

All collected urine samples will be sent to a laboratory that is certified and monitored by the federal Department of Health and Human Services (DHHS).

As specified earlier, in the event of an accident (incident) occurring after regular work hours, the supervisor or designated personnel shall take the employee(s) to the testing site within eight (8) hours where proper collection procedures will be administered.

Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles are sent to a laboratory. Only the primary specimen is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the laboratory. If the analysis of the primary specimen confirms the presence of drugs, the employee has seventy-two (72) hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for their split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. If the MRO determines the test is positive, the MRO will notify the DER.

**REPORTING AND REVIEWING**

City shall designate an MRO to receive, report, and file testing information transmitted by the laboratory. This person shall be a licensed physician with knowledge of substance abuse disorders.

The laboratory shall report test results only to the designated MRO, who will review them in accordance with accepted guidelines and the procedures adopted by the City.

Reports from the laboratory to the MRO shall be in writing or by fax. The MRO may talk with the employee by telephone upon exchange of acceptable identification.

The testing laboratory, collection site personnel, and MRO shall maintain security over all the testing data and limit access to such information to the following: the respective Department Head, the DER, and the employee.

Neither City, the laboratory, nor the MRO shall disclose any drug test results to any other person except under written authorization from the affected employee, unless such results are necessary in the process of resolution of accident (incident) investigations, requested by court order, or required to be released to parties (i.e., DOT, the Tennessee Department of Labor, etc.) having legitimate right-to-know as determined by the City Attorney.

16.3 **Alcohol Testing**

An applicant or employee must carry and present a current and recent photo ID to appropriate personnel during testing. Failure to present a photo ID is equivalent to refusing to take the test.

Employees and applicants may be required to submit to alcohol testing under the following separate conditions:

POST-ACCIDENT/POST-INCIDENT - As soon as practicable following any workplace accident ("incident"), each of City's surviving drivers shall be tested for controlled substances who meets any one of the enumerated conditions below:

1. Who was performing Safety-Sensitive Functions with respect to the vehicle, if the accident involved the loss of human life; or
2. Who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident if the accident involved:
    a. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or
    b. One or more motor vehicles incurring Disabling Property Damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

POST-ACCIDENT/POST-INCIDENT FOR AMBULATORY EMPLOYEES - Following all workplace accidents/incidents where alcohol testing is to be performed, unless otherwise specified by the Department Head, affected employees who are ambulatory will be taken by a supervisor or designated personnel of the City to the designated breath alcohol test site for a breath alcohol test within two (2) hours following the accident. In the event of an accident/incident occurring after regular work hours, the employee(s) will be taken to the testing site within two (2) hours. No employee shall consume alcohol prior to completing the post- accident/incident testing procedures.

No employee shall delay their appearance at the designated collection site(s) for post-accident/incident testing. Any unreasonable delay (greater than two (2) hours noted in the above paragraph) in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the City and shall result in administrative action up to and including termination of employment.

POST-ACCIDENT/POST-INCIDENT FOR INJURED EMPLOYEES - An affected employee who is seriously injured, non-ambulatory, and/or under professional medical care following a significant accident shall consent to the obtaining of specimens for alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the MRO of City appropriate and necessary information or records that would indicate only whether or not specified prohibited alcohol (and what amount) was found in the employee's system. Consent shall be granted by each employee at the implementation date of the substance abuse policy of the City or upon hiring following the implementation date.

Post-accident/incident breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, the City shall require certified or licensed attending medical personnel to take and have analyzed appropriate specimens to determine if alcohol was present in the employee's system. Only an accepted method for collecting specimens will be used. Any failure by medical personnel to do post-accident/incident testing within two (2) hours must be fully documented by the City.

REASONABLE SUSPICION ALCOHOL - An alcohol test is required for each employee where there is reasonable suspicion to believe the employee is using or is under the influence of alcohol (as that term is defined in Section C above). A Department Head or supervisor who has received alcohol detection that complies with DOT regulations must make the decision to test.

Supervisory personnel of the City making a determination to subject any employee to alcohol testing based on reasonable suspicion shall document their specific reasons and observations in writing to the Department Head or Administrator within eight (8) hours of the decision to test and before the results of the tests are received by the department.

RETURN TO DUTY AND FOLLOW-UP - Any City employee who has violated the prohibited drug conduct standards must submit to a return to duty test. This provision in no way assures the employee of a right to continued employment by the City. The City retains the option to terminate an employee who fails to pass any required drug and/or alcohol test. Follow-up tests will be unannounced, and at least six (6) tests will be conducted in the first twelve (12) months after an employee returns to duty. Follow-up testing may be extended for up to six (6) months following return to duty.

The employee will be required to pay for their return to duty and follow-up tests accordingly. Testing will also be performed on the employee returning from leave or special assignment in excess of six (6) months. In this situation, the employee will not be required to pay for the testing.

ALCOHOL TESTING PROCEDURES - All breath alcohol testing conducted for the City shall be performed using evidential breath testing (EBT) equipment and personnel approved by the National Highway Traffic Safety Administration (NHTSA).

Alcohol testing is to be performed by a qualified technician as follows:

1. An initial breath alcohol test will be performed using a breath alcohol analysis device approved by the National Highway Traffic Safety Administration (NHTSA). If the measured result is less than 0.02 percent breath alcohol level (BAL), the test shall be considered negative. If the result is greater or equal to 0.02 percent BAL, the result shall be recorded and witnessed, and the test shall proceed to Step Two.

2. Fifteen (15) minutes shall be allowed to pass following the completion of Step One above. Before the confirmation test or Step Two is administered for each employee, the breath alcohol technician shall ensure that the evidential breath testing device registers on an air blank. If the reading is greater than 0.00, the breath alcohol technician shall conduct one more air blank. If the reading is greater than 0.00, testing shall not proceed using that instrument. However, testing may proceed on another instrument. Then Step One shall be repeated using a new mouthpiece and either the same or equivalent but different breath analysis device.

The breath alcohol level detected in Step Two shall be recorded and witnessed.

Any breath level found upon analysis to be between 0.02 percent BAL and 0.039 percent BAL shall result in the employee's removal from duty without pay for a minimum of twenty-four (24) hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of less than 0.02 percent before returning to duty with the City.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.039 percent or greater, the employee shall be considered to have failed the breath alcohol test. Failure of the breath alcohol test shall result in administrative action by proper officials of the City up to and including termination of employment.

All breath alcohol test results shall be recorded by the technician and shall be witnessed by the tested employee and by a supervisory employee of the City when possible.

The completed breath alcohol test form shall be submitted to DER.

16.4 **Consequences of a Confirmed and/or Verified Positive Drug or Alcohol Test Result**

Job applicants administered drug and/or alcohol tests will be denied employment with the City if their initial positive pre-employment drug and alcohol test results have been confirmed/verified.

If a current employee's positive drug and alcohol test result has been confirmed, the employee will be disciplined up to and including immediate termination.

No disciplinary action may be taken pursuant to this policy against employees who voluntarily identify themselves as drug and/or alcohol users, obtain counseling and rehabilitation through the City’s Employee Assistance Program or another program approved by the City, and thereafter refrain from violating the City’s policy on drug and alcohol abuse.

Refusing to submit to an alcohol or controlled substances test means that an employee:

1. Fails to provide adequate breath for testing without a valid medical explanation after they have received notice of the requirement for breath testing in accordance with the provisions of this part;
2. Fails to provide adequate urine for controlled substances testing without a valid medical explanation after they have received notice of the requirement for urine testing in accordance with the provisions of this part; or
3. Engages in conduct that clearly obstructs the testing process. In either case the physician or breath alcohol technician shall provide a written statement to the City indicating a refusal to test. For an adulterated or substituted test resulting from an Adulterated or Substituted Specimen, if a legitimate medical reason cannot be established for the result, the MRO will report the result as a refusal.

VOLUNTARY DISCLOSURE OF DRUG AND/OR ALCOHOL USE

In the event that an employee of the City is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss their matter with the respective Department Head in private.

Such voluntary desire for help with a substance abuse issue will be honored by the City. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of City are entitled to up to thirty (30) consecutive calendar days for initial substance abuse treatment. In the event accumulated personal leave or compensatory time is insufficient to provide the medically prescribed and needed treatment up to a maximum of thirty (30) consecutive calendar days, the employee will be provided unpaid leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum thirty (30) day treatment period. Voluntary disclosure must occur before an employee is notified of or otherwise becomes subject to a pending drug and/or alcohol test.

Prior to any return-to-duty consideration of an employee following voluntary substance abuse treatment, the employee shall obtain a return-to-duty recommendation from the Substance Abuse Professional (SAP). The SAP may suggest conditions of reinstatement of the employee that may include after-care and return-to-duty and/or random drug and alcohol testing requirements. The respective Department Head and Chief Human Resources Officer will consider each case individually and set forth final conditions of reinstatement to active duty. These conditions of reinstatement must be met by the employee. Failure of the employee to complete treatment or follow after-care conditions, or subsequent failure of any drug or alcohol test under this policy will result in disciplinary action up to and including immediate termination of employment.

These provisions apply to voluntary disclosure of a substance abuse issue by an employee of the City. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy.

## 16.5 Exceptions

This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, Intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol.

This statement of policy replaces the City's policy regarding Alcohol and Drugs, which was last revised on February 1, 2019, and may be revised by City at any time to comply with applicable federal and state regulations that may be implemented, to comply with judicial rulings, or to meet any changes in the work environment or changes in the drug and alcohol testing policy of City.

## 16.6 Education and Training

SUPERVISORY TRAINING

Training supervisory personnel who will determine whether an employee must be tested based on reasonable suspicion will include at a minimum two (2) sixty (60) minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One (1) sixty (60) minute training period will be for drugs and one will be for alcohol.

The City will annually sponsor a drug-free awareness program for all employees.

DISTRIBUTION OF INFORMATION

The minimal distribution of information for all employees will include the display and distribution of:

1. Informational material on the effects of drug and alcohol abuse;
2. An existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;
3. City policy regarding the use of prohibited drugs and/or alcohol; and
4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

## 16.7 Commercial Motor Vehicle (CDL) Drivers Drug and Alcohol Policy

### 16.7A Policy, Provisions and Implementation

The City of Chattanooga ("City") is dedicated to the health and safety of our drivers. Drug and/or alcohol use may pose a serious threat to driver health and safety. Therefore, it is the policy of the City to prevent the use of drugs and abuse of alcohol from having an adverse effect on our drivers.

The serious impact of drug use and alcohol abuse has been recognized by the federal government. The Federal Motor Carrier Safety Administration ("FMCSA") has issued

regulations which require the City to implement an alcohol and controlled substances testing program.

The purpose of the FMCSA-issued regulations is to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles.

The City will comply with these regulations and is committed to maintaining a drug-free workplace.

It is the policy of the City that the use, sale, purchase, transfer, possession, or presence in one's system of any controlled substance (except medically prescribed drugs) by any driver while on City premises, engaged in City business, operating City equipment, or while under the authority of the City is strictly prohibited. Disciplinary action will be taken as necessary.

Neither this policy nor any of its terms are intended to create a contract of employment or contain the terms of any contract of employment. The City retains the sole right to change, amend, or modify any term or provision of this policy without notice. This policy is effective January 1, 2018, and will supersede all prior policies and statements relating to alcohol or drugs.

ADMINISTRATIVE PROVISIONS

This policy summarizes and puts into a concise format the provisions of the U.S. Department of Transportation, Federal Motor Carrier Safety Administration Regulations, contained in 49 CFR, Parts 40 and 382 ("DOT Regulations"), but it is intended in no way to contradict or impose less stringent requirements than the referenced DOT Regulations.

As provided for in 49 CFR, Parts 40 and 382, this policy applies to, covers, and imposes drug and alcohol testing requirements on "Safety-sensitive" employees of the City. The City is responsible for meeting all applicable requirements and procedures of these Parts, and the policy administered on behalf of the City by the Designated Employer Representative ("DER") as defined in the DOT Regulations and below.

Drug and alcohol testing of a Safety-sensitive employee mandated by this policy and by the DOT Regulations are to be completely separate from any "non-DOT" drug and alcohol testing performed by the City or through the City's non-DOT drug testing program. The DOT tests of a Safety-Sensitive driver required by this policy and the DOT Regulations are to take priority and must be conducted and completed before a non-DOT test is begun. Any excess urine from a driver's DOT test must be discarded and may not be used for any non-DOT test. No other testing (e.g., medical, DNA, or other drugs or specimen) may be performed on urine or breath incidental to a DOT drug or alcohol test. (The single exception to this restriction is when a DOT drug test is conducted in conjunction with a DOT physical examination. In this situation, any urine remaining in the collection container, after the drug test urine specimens have been sealed into the separate bottles, may be used for the needed glucose test associated with the DOT physical examination). The results of the DOT test may not be changed or disregarded based on the results of a non-DOT test. Notwithstanding anything contained in this policy to the contrary, Safety-sensitive

Employees mandated by this program may be tested as authorized by the Drug and Alcohol Testing Policy for Non-Commercial Driver's License Employees if the circumstances giving rise to such testing do not arise from the employee's operation of a Commercial Motor Vehicle.

RESPONSIBILITY

In accordance with 49 CFR §382.601(a), each employer shall provide educational materials that explain the requirements in Part 382 and the employer's policies and procedures with respect to meeting these requirements. The employer shall ensure a copy of these materials is distributed to each driver prior to the start of alcohol and controlled substances testing under this part and to each driver subsequently hired or transferred into a Safety-sensitive function position (i.e., operating a Commercial Motor Vehicle as defined in §382.107 requiring a CDL).

Each driver hired or transferring into a Safety-sensitive function is responsible for reviewing the content of the information presented to drivers. Each driver is responsible for asking questions about the procedures if the content is unclear to them. Drivers may pose follow- up questions about the content of this policy and procedures to the Director of Safety Compliance & Risk Management.

REGULATORY REQUIREMENTS

All drivers who operate commercial motor vehicles that require a commercial driver's license under 49 CFR Part 383 are subject to the FMCSA's drug and alcohol regulations, 49 CFR Part 382.

NON-REGULATORY REQUIREMENTS

The Federal Motor Carrier Safety Regulations ("FMCSR"s) set the minimum requirements for testing. The City's policy in certain instances may be more stringent. This policy will clearly define what is mandated by the FMCSRs and what City procedure is.

WHO IS RESPONSIBLE?

It is the City's responsibility to provide testing for the driver that is in compliance with all federal and state laws and regulations, and within the provisions of this policy. The City will retain all records related to testing and the testing process in a secure manner.

The City's alcohol and drug program administrator who is designated to monitor, facilitate, and answer questions pertaining to these procedures is: The Director of Safety, Compliance & Risk Management, Phone Number: (423) 643-7027.

The driver is responsible for complying with the requirements set forth in this policy. The driver will not use, have possession of, abuse, or have the presence of alcohol or any controlled substance in excess of regulation-established threshold levels while on duty. The driver will not use alcohol within four (4) hours of performing a "Safety-sensitive" function, while performing a "Safety sensitive" function, or immediately after performing a "Safety- sensitive" function. The driver must submit to alcohol and controlled substances tests administered under Part 382.

All supervisors must make every effort to be aware of a driver's condition at all times the driver is in service of the City. The supervisor must be able to make reasonable suspicion observations to determine if the driver is impaired in some way, and be prepared to implement the requirements of this policy if necessary.

16.7B **Definitions**

When implementing and interpreting the drug and alcohol policies and procedures required by the FMCSA as well as the policies and procedures required by the City, the following definitions apply:

***Actual knowledge*** means actual knowledge by an employer that a driver has used alcohol or controlled substances based on the employer's direct observation of the driver, information provided by the driver's previous employer(s), a traffic citation for driving a commercial motor vehicle while under the influence of alcohol or a controlled substance, or a driver's admission of alcohol or controlled substance use under the provisions of §382.121. Direct observation as used in this definition means observation of alcohol or controlled substance use and does not include observation of driver behavior or physical characteristics sufficient to warrant reasonable suspicion testing under §382.307.

***Adulterated specimen*** means a urine specimen containing a substance that is not a normal constituent or containing an endogenous substance at a concentration that is not a normal physiological concentration.

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

***Alcohol concentration (or content)*** means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test.

***Alcohol screening device ("ASD")*** means a breath or saliva device, other than an evidential breath testing device ("EBT") that is approved by the National Highway Traffic Safety Administration ("NHTSA") and appears on the Office of Drug and Alcohol Policy and Compliance webpage for "Approved Screening Devices to Measure Alcohol in Bodily Fluids" because it conforms to the specifications from NHTSA.

***Alcohol use*** means the consumption of any beverage, liquid mixture, or preparation, including any medication containing alcohol.

***Aliquot*** means a fractional part of a specimen used for testing. It is taken as a sample representing the whole specimen.

***Breath Alcohol Technician (or "BAT")*** means an individual who instructs and assists individuals in the alcohol testing process, and operates an EBT.

***Collection site*** means a place designated by the City, where individuals present themselves for the purpose of providing a urine specimen for a drug test.

***Commercial motor vehicle (or "CMV")*** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- Has a gross combination weight rating of 26,001 or more pounds (11,794 or more kilograms) inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds (4,536 kilograms); or
- Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, subpart F).

***Confirmatory drug test*** means a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. (Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, amphetamines, opioids and phencyclidine).

***Confirmatory validity test*** means a second test performed on a different aliquot of the original urine specimen to further support a validity test result.

***Consortium/Third-party administrator ("C/TPA")*** is a service agent that provides or coordinates the provision of a variety of drug and alcohol testing services for the City. C/TPAs typically perform administrative tasks concerning the operation of the City's drug and alcohol testing programs. This term includes, but is not limited to, groups of employers who join together to administer, as a single entity, the DOT drug and alcohol testing programs of its members. C/TPAs are not "employers."

***Controlled substances*** mean those substances identified in 49 CFR, Section 40.85. In accordance with FMCSA rules, urinalyses will be conducted to detect the presence of the following substances:

- Marijuana
- Cocaine
- Opioids
- Amphetamines
- Phencyclidine (PCP)

Detection levels requiring a determination of a positive result shall be in accordance with the guidelines adopted by the FMCSA in accordance with the requirements established in 49 CFR, §40.87.

***Designated employer representative ("DER")*** is an individual identified by the employer as able to receive communications and test results from service agents and who is

authorized to take immediate actions to remove drivers from Safety-sensitive duties and to make required decisions in the testing and evaluation processes. The individual must be an employee of the City. Service agents cannot serve as DERs.

***Dilute specimen*** means a urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

***Direct observation*** means the observer must request the employee to raise their shirt, blouse, or dress/skirt, as appropriate, above the waist, and lower clothing and underpants to show, by turning around, that they do not have such a device, they may permit the employee to return clothing to its proper position for observed urination.

***Disabling damage*** means damage that precludes departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repairs.

1. Inclusions.
    a. Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
2. Exclusions.
    a. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
    b. Tire disablement without other damage even if no spare tire is available.
    c. Headlight or tail light damage.
    d. Damage to turn signals, horn, or windshield wipers which make them inoperative.

***Driver*** means any person who operates a commercial motor vehicle. This includes, but is not limited to: full time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or who operates a commercial motor vehicle at the direction of or with the consent of any employer.

***Drugs*** means the drugs for which tests are required under this policy and DOT agency regulations which are: marijuana, cocaine, amphetamines, phencyclidine (PCP) and opioids.

***Drug test or tests*** means any chemical, biological, or physical instrumental analysis administered by a certified laboratory for the purpose of determining the presence or absence of a drug or its metabolites or alcohol pursuant to regulations governing drugs or alcohol testing adopted by the United States Department of Transportations.

***Employee*** means any person who works for salary, wages, or other remuneration for the City.

***Employee Assistance Program ("EAP")*** means an established program capable of providing expert assessment of employees' personal concerns; confidential and timely

identification services with regard to employee drug or alcohol abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and follow-up services for employee to participate in the program or require monitoring after returning to work.

***Evidential breath testing device ("EBT")*** means a device approved by the NHTSA for the evidential testing of breath at the 0.02 and 0.04 concentrations and appears on the OPAPC's webpage for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

***FMCSA*** means Federal Motor Carrier Safety Administration, U.S. Department of Transportation.

***Initial drug test (also known as a Screening drug test)*** means an immunoassay test to eliminate "negative" urine specimens from further consideration and to identify the presumptively positive specimens that require confirmation or further testing. Initial validity test means the first test used to determine if a urine specimen is adulterated, diluted, or substituted.

***Invalid result*** means the result reported by a laboratory for a urine specimen that contains an unidentified adulterant, contains an unidentified interfering substance, has an abnormal physical characteristic, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing testing or obtaining a valid drug test result.

***Licensed medical practitioner*** means a person who is licensed, certified, and/or registered, in accordance with applicable federal, state, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

***Medical Review Officer (MRO)*** is a person who is a licensed physician (Doctor of Medicine or Osteopathy) and who is responsible for receiving and reviewing laboratory results generated by the City's drug testing program and evaluating medical explanations for certain drug test results.

***Non-negative specimen*** means a urine specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), and/or invalid.

***Oxidizing adulterant*** means a substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or drug metabolites, or affects the reagents in either the initial or confirmatory drug test.

***Performing (a Safety-sensitive function)*** means a driver is considered to be performing a Safetysensitive function during any period in which they are actually performing, ready to perform, or immediately available to perform any Safety-sensitive functions.

***Prescription medications*** means the use (by a driver) of legally prescribed medications issued by a licensed healthcare professional familiar with the driver's work-related responsibilities. Refuse to submit (to an alcohol or controlled substances test) means that a driver:

1. Fails to appear for any test (except pre-employment) within a reasonable time, as determined by the City, consistent with applicable DOT regulations, after being

directed to do so by the City. This includes the failure of a driver (including owner-operator) to appear for a test when called by a C/TPA;

2. Fails to remain at the testing site until the testing is complete (except pre-employment if the driver leaves before the testing process begins);
3. Fails to provide a urine specimen for any DOT required drug test (except pre-employment if the driver leaves before the testing process begins);
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of the specimen;
5. Fails to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
6. Fails or declines to take a second test the employer or collector has directed the driver to take;
7. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the DER (in the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre- employment test is conducted following a contingent offer of employment);
8. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);
9. For an observed collection, fails to follow the observer's instructions to raise their clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if they have any type of prosthetic or other device that could be used to interfere with the collection process;
10. Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
11. Admits to the collector or MRO that they adulterated or substituted the specimen;
12. Is reported by the MRO as having a verified adulterated or substituted test result.

***Safety-sensitive employee*** means all employees who possess a commercial driver's license and who are qualified to operate a City motor vehicle which meet the standards as outlined in the definition contained herein and specified in Section 382.107 of the "Federal Motor Carrier Safety Administration" Regulations.

***Safety-sensitive function*** means all time from the time a driver begins to work or is required to be in readiness to work until the time they are relieved from work and all responsibility for performing work. Safety-sensitive functions include:

- All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the City;
- All time inspecting equipment as required by Secs. 392.7 and 392.8 or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- All time spent at the driving controls of a commercial motor vehicle in operation;
- All time, other than driving time, in or upon any commercial motor vehicle, except time spent resting in a sleeper berth (a berth conforming to the requirements of Sec. 393.76);
- All time 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 the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

***Screening test technician (STT)*** is a person who instructs and assists employees in the alcohol testing process and operates an alcohol screening device (ASD).

***Stand-down*** means the practice of temporarily removing a driver from the performance of Safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive drug test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results.

***Substance abuse professional (SAP)*** is a person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare. An SAP must be:

- A licensed physician (Doctor of Medicine or Osteopathy);
- A licensed or certified social worker;
- A licensed or certified psychologist;
- A licensed or certified employee assistance professional; or
- A drug and alcohol counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NAADAC) or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC), or by the National Board for Certified Counselors, Inc. and Affiliates/Master Addictions Counselor (NBCC).

***Substitute specimen*** means a urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

16.7C **Alcohol Prohibitions**

49 CFR, Part 382, Subpart B, prohibits any alcohol misuse that could affect performance of Safety-sensitive functions.

This alcohol prohibition includes:

- Use while performing Safety-sensitive functions;
- Use during the four (4) hours before performing Safety-sensitive functions;
- Reporting for duty or remaining on duty to perform Safety-sensitive functions with an alcohol concentration of 0.04 or greater;
- Use of alcohol for up to 8 hours following an accident or until the driver undergoes a post-accident test; or
- Refusal to take a required test.

**NOTE**: Per FMCSA regulation (Sec. 382.505), a driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform, nor be permitted to perform, Safety- sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

16.7D **Drug Prohibitions**

49 CFR, Part 382, Subpart B, prohibits any drug use that could affect the performance of Safety-sensitive functions.

This drug prohibition includes:

- Use of any drug, except when administered to a driver by, or under the instructions of a licensed medical practitioner, who has advised the driver that the substance will not affect the driver's ability to safely operate a commercial motor vehicle. (Under federal law, the use of marijuana or any Schedule I drug does not have a legitimate medical use in the United States);
- Testing positive for drugs; or
- Refusing to take a required test.

All drivers will inform their supervisors of any therapeutic drug use prior to performing a Safety-sensitive function. They may be required to present written evidence from a health care professional which describes the effects such medications may have on the driver's ability to perform their tasks.

16.7E **Circumstances for Testing**

**PRE-EMPLOYMENT, 49 CFR§382.301**

In accordance with §382.301, all driver applicants will be required to submit to and pass a urine drug test as a condition of employment.

Each driver applicant will be asked whether they have tested positive, or refused to test, on any pre-employment drug test administered by an employer to which the driver applicant

applied for, but did not obtain, Safety-sensitive transportation work during the past two (2) years.

If the driver applicant admits that they have tested positive, or refused to test, on any preemployment test, the driver applicant may not perform any Safety-sensitive functions for the City until and unless the driver applicant documents successful completion of the return-to-duty process.

Driver applicant drug testing shall follow the collection, chain-of-custody, and reporting procedures set forth in 49 CFR Part 40.

An employee of the City transferring to a Safety-sensitive driving position is also subject to and must pass a urine drug test as a condition of the transfer.

If the employee transferring to a Safety-sensitive function does not pass their pre-employment drug screen, they will not be considered for the driving position.

A pre-employment alcohol test will be conducted after the City has made a contingent offer of employment or transfer, subject to the individual passing the pre-employment alcohol test. All preemployment alcohol tests will follow the alcohol testing procedures outlined in 49 CFR Part 40.

The pre-employment alcohol test will be conducted before the first performance of Safety-sensitive functions. An individual may not begin performing Safety-sensitive functions until they have received a test result that indicates an alcohol concentration of less than 0.04.

**REASONABLE SUSPICION TESTING**

If the driver's supervisor or another City official designated to supervise drivers believes a driver is under the influence of alcohol or drugs, the driver will be required to undergo a drug and/or alcohol test.

The basis for this decision will be specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver.

The driver's supervisor or another City official will immediately remove the driver from any and all Safety-sensitive functions and take the driver or make arrangements for the driver to be taken to a testing facility. Transport of the driver shall also include travel to the driver's residence as they should not be permitted to work when they may be under the influence of a drug or alcohol.

The person who makes the determination that reasonable suspicion exists to conduct an alcohol test may not administer the alcohol test. Per FMCSA regulation, reasonable suspicion alcohol testing is only authorized if the observations are made during, just preceding, or after the driver is performing a Safety-sensitive function.

Per FMCSA regulation, if the driver tests 0.02 or greater, but less than 0.04, for alcohol, the driver will be removed from all Safety-sensitive functions, including driving a commercial motor vehicle, until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

If an alcohol test is not administered within two hours following a reasonable suspicion determination, the program administrator will prepare and maintain a record stating reasons why the test was not administered within two (2) hours.

If the test was not administered within eight (8) hours after a reasonable suspicion determination, all attempts to administer the test shall cease. A record of why the test was not administered must be prepared and maintained.

A written record of the observations leading to an alcohol or controlled substance reasonable suspicion test, signed by the supervisor or City official who made the observation, will be completed within 24 hours of the observed behavior or before the results of the alcohol or controlled substance test are released, whichever is first. The written record shall be submitted to the Chief Human Resources Officer.

**POST-ACCIDENT TESTING (§382.303)**

Drivers are to notify their supervisors as soon as possible if they are involved in an accident. According to FMCSA regulations (§382.303), if the accident involved:

- A fatality;
- Bodily injury with immediate medical treatment away from the scene and the driver received a citation; or
- Disabling damage to any motor vehicle requiring tow away and the driver received a citation

The driver will be tested for drugs and alcohol as soon as possible following the accident. The driver must remain readily available for testing. If the driver isn't readily available for alcohol and drug testing, they may be deemed as refusing to submit to testing. A driver involved in an accident may not consume alcohol for 8 hours or until testing is completed.

If the alcohol test is not administered within 2 hours following the accident, the driver's supervisor will prepare a report and maintain a record stating why the test was not administered within two hours.

If the alcohol test is not administered within 8 hours following the accident, all attempts to administer the test will cease. A report and record of why the test was not administered will be prepared and maintained.

The drug test will be administered within 32 hours of the accident. If the test could not be administered within 32 hours, all attempts to test the driver will cease.

The driver 's Department Head will prepare and maintain a record stating the reasons why the test was not administered within the allotted time frame.

**RANDOM TESTING**

City will conduct random testing for all drivers as follows:

- City will use a City-wide selection process based on a scientifically valid method, prescribed by FMCSA regulations.

- City will use a consortium. The consortium will use a selection process based on a scientifically valid method, prescribed by FMCSA regulations.
- City will administer the random testing program, maintaining all pertinent records on random tests administered.
- At least ten (10%) percent of the consortium's average number of driver positions will be tested for alcohol each year. At least fifty (50%) percent of the consortium's average number of driver positions will be tested for drugs each year.
- The random testing will be spread reasonably throughout the calendar year. All random alcohol and drug tests will be unannounced, with each driver having an equal chance of being tested each time selections are made.
- A driver may only be tested for alcohol while they are performing a Safety-sensitive function, just before performing a Safety-sensitive function, or just after completing a Safety-sensitive function. Once notified that they have been randomly selected for testing, the driver must proceed immediately to the assigned collection site.

**RETURN TO DUTY TESTING (§382.309)**

After failing an alcohol test, a driver must undergo a return-to-duty test prior to performing a Safety-sensitive function. The test results must indicate a breath alcohol concentration of less than 0.02.

After testing positive for a controlled substance, a driver must undergo a return-to-duty test under direct observation prior to performing a Safety-sensitive function. The test must indicate a verified negative result for drug use.

**FOLLOW-UP TESTING (§382.311)**

Following the driver's violation of Part 382, Subpart B, the driver will be subject to follow-up testing. Follow-up testing will be unannounced. The number and frequency of such follow-up testing will be directed by the SAP, and consist of at least six tests in the first 12 months. Follow-up testing may be done for up to 60 months. Follow-up drug tests must be conducted under direct observation.

**REFUSAL TO SUBMIT**

According to §382.211, a driver may not refuse to submit to a post-accident, random, reasonable suspicion, or follow-up alcohol or controlled substances test required by the regulations. A driver who refuses to submit to such tests may not perform or continue to perform Safety-sensitive functions and must be evaluated by a substance abuse professional as if the driver tested positive for drugs or failed an alcohol test.

Refusal to submit includes failing to provide adequate breath or urine sample for alcohol or drug testing and any conduct that obstructs the testing process. This includes adulteration or substitution of a urine sample.

16.7F **Refusal to Test**

A driver's refusal to test for alcohol or controlled substances will be considered a positive test result. Adulteration or tampering with a urine or breath sample is considered conduct that obstructs the testing process and is considered a refusal to test. A driver whose conduct is considered a refusal to test will be considered a positive test result and will be subject to the disciplinary measures set forth in this policy.

16.7G **Alcohol Testing Procedures**

Alcohol testing will be conducted at the WellAdvantage Health Center by a qualified breath alcohol technician (BAT) or screening test technician (STT), according to 49 CFR Part 40 procedures. Only products on the conforming products list (approved by the National Highway Traffic Safety Administration (NHTSA)) and Part 40 requirements will be utilized for testing under this policy.

The testing will be performed in a private setting. Only authorized personnel will have access, and are the only individuals who can see or hear the test results.

When the driver arrives at the testing site, the BAT or STT will ask for identification. The driver may ask the BAT or STT for identification.

The BAT or STT will then explain the testing procedure to the driver. The BAT or STT may only supervise one test at a time, and may not leave the testing site while the test is in progress.

A screening test is performed first. When a breath testing device is used, the mouthpiece of the breath testing device must be sealed before use, and opened in the driver's presence. Then the mouthpiece is inserted into the breath testing device.

The driver must blow forcefully into the mouthpiece of the testing device for at least 6 seconds or until an adequate amount of breath has been obtained.

Once the test is completed, the BAT must show the driver the results. The results may be printed on a form generated by the breath testing device or may be displayed on the breath testing device. If the breath testing device does not print results and test information, the BAT is to record the displayed result, test number, testing device, serial number of the testing device, and time on the alcohol testing form. If the breath testing device prints results, but not directly onto the form, the BAT must affix the printout to the alcohol testing form in the designated space.

When an alcohol screening device (ASD) is used, the screening test technician (STT) must check the device's expiration date and show it to the driver. A device may not be used after its expiration date.

The STT will open an individually wrapped or sealed package containing the device in front of the driver and they will be asked to place the device in their mouth and use it in the manner described by the device's manufacturer.

If the driver declines to use the device, or in a case where the device doesn't activate, the STT must insert the device in the driver's mouth and use it in the manner described by the

device's manufacturer. The STT must wear single-use examination gloves and must change the gloves following each test.

When the device is removed from the driver's mouth, the STT must follow the manufacturer's instructions to ensure the device is activated.

If the procedures listed above can't be successfully completed, the device must be discarded and a new test must be conducted using a new device. Again, the driver will be offered the choice of using the new device or having the STT use the device for the test.

If the new test can't be successfully completed, the driver will be directed to immediately take a screening test using an EBT.

The result displayed on the device must be read within 15 minutes of the test. The STT must show the driver the device and its reading and enter the result of the ATF.

If the reading on the EBT or ASD is less than 0.02, both the driver and the BAT or STT must sign and date the result form. The form will then be confidentially forwarded to the City's DER.

If the reading on the EBT or ASD is 0.02 or more, a confirmation test must be performed. An EBT must be used for all confirmation tests.

The test must be performed after 15 minutes have elapsed, but within thirty (30) minutes of the first test. The BAT will ask the driver not to eat, drink, belch, or put anything into their mouth. These steps are intended to prevent the build-up of mouth alcohol, which could lead to an artificially high result.

A new, sealed mouthpiece must be used for the new test. The calibration of the EBT must be checked. All of this must be done in the driver's presence.

If the results of the confirmation test and screening test are not the same, the confirmation test will be used.

Refusal to complete and sign the alcohol testing form or refusal to provide breath or saliva will be considered a failed test, and the driver will be removed from all Safety-sensitive functions until the matter is resolved.

16.7H **Drug Testing Procedures**

Drug testing will be conducted at the WellAdvantage Health Center. Specimen collection will be conducted in accordance with 49 CFR Part 40 and any applicable state law. The collection procedures have been designed to ensure the security and integrity of the specimen provided by each driver. The procedures will strictly follow federal chain of custody guidelines.

A drug testing custody and control form (CCF) will be used to document the chain of custody from the time the specimen is collected at the testing facility until it is tested at the laboratory.

A collection kit meeting the requirements of Part 40, Appendix A, must be used for the drug test.

The collection of specimen must be conducted in a suitable location and must contain all necessary personnel, materials, equipment, facilities, and supervision to provide for collection, security, and temporary storage and transportation of the specimen to a certified laboratory.

When the driver arrives at the collection site, the collection site employee will ask for identification. The driver may ask the collection site person for identification.

The driver will be asked to remove all unnecessary outer garments (coat, jacket) and secure all personal belongings. The driver may keep their wallet.

The driver will then wash and dry their hands. After washing hands, the driver must remain in the presence of the collection site person and may not have access to fountains, faucets, soap dispensers, or other materials that could adulterate the specimen.

The collection site person will select, or allow the driver to select, an individually wrapped or sealed container from the collection kit materials. Either the collection site person or the driver, with both individuals present, must unwrap or break the seal of the collection container. The seal on the specimen bottle may not be broken at this time. Only the collection container may be taken into the room used for urination.

The driver is then instructed to provide their specimen in a room that allows for privacy.

The specimen must consist of at least 45 mL of urine. Within 4 minutes after obtaining the specimen, the collection site person will measure its temperature. The acceptable temperature range is 90 to 100 degrees Fahrenheit. If the specimen temperature is outside the acceptable range, the collector must note this on the CCF and must immediately conduct a new collection using direct observation procedures outlined in Sec. 40.67. Both specimens must be sent to the lab for testing. The collector must notify both the DER and collection site supervisor that the collection took place under direct observation and the reason for doing so.

The collection site person will also inspect the specimen for color and look for signs of contamination or tampering. If there are signs of contamination or tampering, the collector must immediately conduct a new collection using direct observation procedures outlined in §40.67. Both specimens must be sent to the lab for testing. The collector must notify both the DER and collection site supervisor that the collection took place under direct observation and the reason for doing so.

The 45 mL sample provided must be split into a primary specimen of 30 mL and a second specimen (used as the split) of 15 mL. The collection site person must place and secure the lids on the bottles, place tamper-evident bottle seals over the lids and down the sides of the bottles, and write the date on the tamper-evident seals. The driver then initials the tamper-evident bottle seals to certify that the bottles contain specimens they provided. All of this must be done in front of the driver.

All identifying information must be entered on the CCF by the collection site person.

The CCF must be signed by the collection site person, certifying collection was accomplished in accordance with the instructions provided. The driver must also sign the form indicating the specimen was theirs.

The collector is responsible for placing and securing the specimen bottles and a copy of the CCF into an appropriate pouch or plastic bag.

At this point, the driver may leave the collection site.

The collection site must forward the specimens to the lab as quickly as possible, within 24 hours or during the next business day.

16.7I **Laboratory Analysis**

As required by FMCSA regulations, only a laboratory certified by the Department of Health and Human Services (DHSS) to perform urinalysis for the presence of controlled substances will be retained by the City. The laboratory will be required to maintain strict compliance with federally approved chain-of-custody procedures, quality control, maintenance, and scientific analytical methodologies.

All specimens are required to undergo an initial screen followed by confirmation of all positive screen results.

RESULTS

According to FMCSA regulation, the laboratory must report all test results directly to the City's MRO. All test results must be transmitted to the MRO in a timely manner, preferably the same day that the review by the certifying scientist is completed. All results must be reported.

The MRO is responsible for reviewing and interpreting all confirmed positive, adulterated, substituted, or invalid drug test results. The MRO must determine whether alternate medical explanations could account for the test results. The MRO must also give the driver who has a positive, adulterated, substituted, or invalid drug test an opportunity to discuss the results prior to making a final determination. After the decision is made, the MRO must notify the DER.

If the MRO, after making and documenting all reasonable efforts, is unable to contact a tested driver, the MRO shall contact the DER instructing them to contact the driver. The DER will arrange for the driver to contact the MRO before going on duty.

The MRO may verify a positive, adulterated, or substituted specimens without having communicated with the driver about the test results if:

- The driver expressly declines the opportunity to discuss the results of the test;
- Neither the MRO nor DER has been able to make contact with the driver for ten (10) days; or
- Within 72 hours after a documented contact by the DER instructing the driver to contact the MRO, the driver has not done so.

The MRO may verify an invalid test result as canceled (with instructions to recollect immediately under direct observation) without interviewing the employee, as provided at §40.159 if:

- The driver expressly declines the opportunity to discuss the test with the MRO;
- The DER has successfully made and documented a contact with the driver and instructed the driver to contact the MRO and more than 72 hours have passed since the time the DER contacted the driver; or
- Neither the MRO nor the DER, after making and documenting all reasonable efforts, has been able to contact the driver within ten days of the date on which the MRO received the confirmed invalid test result from the laboratory.

SPLIT SAMPLE

As required by FMCSA regulations, the MRO must notify each driver who has a positive, adulterated, or substituted drug test result that they have 72 hours to request the test of the split specimen. If the driver requests the testing of the split, the MRO must direct (in writing) the lab to provide the split specimen to another certified laboratory for analysis. There is no split specimen testing for an invalid result.

The driver will pay for the testing of the split specimen.

If the analysis of the split specimen fails to reconfirm the results of the primary specimen, or if the split specimen is unavailable, inadequate for testing, or unstable, the MRO must cancel the test and report the cancellation and the reasons for it to the DER and the driver.

SPECIMEN RETENTION

Long-term frozen storage will ensure that positive urine specimens will be available for any necessary retest. City's designated drug testing laboratory will retain all confirmed positive specimens for at least one (1) year in the original labeled specimen bottle.

DILUTE SPECIMENS

If the MRO informs the City that a positive drug test was dilute, City will simply treat the test as a verified positive test. The City will not direct the employee to take another test based on the fact that the specimen was dilute. This is in accordance with §40.197.

If the MRO directs the City to conduct a recollection under direct observation (i.e., because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL (see §40.155(c)), City will do so immediately.

The following provisions apply to all tests that City sends the driver for under the directive of the MRO:

- The employee is given the minimum possible advance notice that they must go to the collection site;
- The result of the retest taken under §40.197(b), and not a prior test, is accepted as the test result of record;

- If the result of the retest taken under §40.197(b) is also negative and dilute, City will not make the employee take an additional test because the result was dilute. Provided, however, that if the MRO directs City to conduct a recollection under direct observation under §40.197(b)(1), the City must immediately do so.

- If the employee declines to take a test as directed in accordance with §40.197(b), the employee has refused the test for purposes of Part 40 and DOT agency regulations.

If the creatinine concentration of the dilute specimen is greater than 5 mg/dL, City has elected to include the optional retest provision in its City policy. City will direct the employee to take another test immediately under City policy in accordance with §40.197. Such recollections will not be collected under direct observation, unless there is another basis for use of direct observation. (see §40.67 (b) and (c)).

The following provisions apply to all retests that City sends the driver for under City policy:

- The employee is given the minimum possible advance notice that they must go to the collection site;

- The result of the retest taken under §40.197(b), and not a prior test, is accepted as the test result of record;

- If the result of the retest taken under §40.197(b) is also negative and dilute, City will not make the employee take an additional test because the result was dilute. Provided, however, that if the MRO directs City to conduct a recollection under direct observation under §40.197(b)(1), the City must immediately do so.

- If the employee declines to take a test as directed in accordance with §40.197(b), the employee has refused the test for purposes of Part 40 and DOT agency regulations.

City will conduct retests for the following DOT-required tests: [Enter test types]

INVALID RESULTS

When the laboratory reports that the test result is an invalid result, the MRO must:

- Contact the employee and inform the employee that the specimen was invalid. In contacting the employee, they use the procedures set forth in §40.131.

- After explaining the limits of disclosure (see §40.135(d) and 40.327), the MRO must determine if the employee has a medical explanation for the invalid result. They must inquire about the medications the employee may have taken.

If the employee gives an explanation that is acceptable, the MRO must:

- Place a check mark in the “Test Canceled” box (Step 6) on Copy 2 of the CCF and enter “Invalid Result” and “direct observation collection not required” on the “Remarks” line.

- Report to the DER that the test is canceled, the reason for the cancellation, and that no further action is required unless a negative test result is required (i.e., preemployment, return-to-duty, or follow-up tests). If a negative test result is required and the medical explanation concerns a situation in which the employee has a permanent or long-term medical condition that precludes them from providing a valid specimen, the MRO must follow the procedures outlined at §40.160 for determining if there is clinical evidence that the individual is an illicit drug user.

- If the medical evaluation reveals no clinical evidence of drug use, the MRO must report this to the employer as a negative test result with written notations regarding the medical examination. The report must also state why the medical examination was required (i.e., either the basis for the determination that a permanent or long-term medical condition exists or because the recollection under direct observation resulted in another invalid result for the same reason, as appropriate) and for the determination that no signs and symptoms of drug use exist.

- If the medical evaluation reveals clinical evidence of drug use, the MRO must report the result to the employer as a canceled test with written notations regarding the results of the medical examination. The report must also state why the medical examination was required (i.e., either the basis for the determination that a permanent or long-term medical condition exists or because the recollection under direct observation resulted in another invalid result for the same reason, as appropriate) and state the reason for the determination that signs and symptoms of drug use exist. Because this is a canceled test, it does not serve the purpose of an actual negative test result **(i.e., the employer is not authorized to allow the employee to begin or resume performing Safety- sensitive functions, because a negative test result is needed for that purpose).**

If the employee admits to the MRO that they tampered with the specimen, the result is reported as a refusal to be tested.

If the employee admits to the MRO that they used drugs, the test is canceled with the reason noted (invalid) and the DER is notified of the admission. The DER has actual knowledge of a violation, and the occurrence is treated the same as a positive result.

If the employee does not give a reasonable explanation, the MRO:

- Places a check mark in the “Test Canceled” and enters “Invalid Result” and “direct observation collection required” on the “Remarks” line.

- Reports to the DER that the test is canceled, the reason for cancellation, and that a second collection must take place immediately under direct observation.

- Instructs the employer to ensure that the employee has the minimum possible advance notice that they must go to the collection site.

16.7J **Confidentiality/Recordkeeping**

All driver alcohol and controlled substance test records are considered confidential (Sec. 382.401). For the purpose of this policy/procedure, confidential recordkeeping is defined as records maintained in a secure manner, under lock and key, accessible only to the program administrator.

If the program administrator is unavailable, the Safety and Compliance Specialist will have access to the alcohol and controlled substance records.

Driver alcohol and controlled substance test records will only be released in the following situations:

- To the driver, upon their written request;
- Upon request of a DOT agency with regulatory authority over City;
- Upon request of state or local officials with regulatory authority over City;
- Upon request by the United States Secretary of Transportation;
- Upon request by the National Transportation Safety Board (NTSB) as part of an accident investigation;
- Upon request by subsequent employers upon receipt of a written request by a covered driver;
- In a lawsuit, grievance, or other proceeding if it was initiated by or on behalf of the complainant and arising from results of the tests; or
- Upon written consent by the driver authorizing the release to a specified individual. All records will be retained for the time period required in §382.401.

16.7K **Driver Assistance**

DRIVER EDUCATION AND TRAINING

All drivers will be given information regarding the requirements of Part 382 and this policy by their supervisor.

SUPERVISOR TRAINING

According to FMCSA regulation, all employees of City designated to supervise drivers will receive training on this program. The training will include at least sixty (60) minutes on alcohol misuse and sixty (60) minutes on drug use. The training content will include the physical, behavioral, speech, and performance indicators of probably alcohol misuse and drug use. The training allows supervisors to determine reasonable suspicion that a driver is under the influence of alcohol or drugs.

REFERRAL, EVALUATION, AND TREATMENT (§382.605)

According to FMCSA regulation, a list of substance abuse professionals will be provided to all drivers who fail an alcohol test or test positive for drugs.

The alcohol and drug program administrator will be responsible for designating the appropriate substance abuse professional (SAP) who, in conjunction with the driver's physician, will diagnose the problem and recommend treatment. In the event a driver violates Part 382, City will identify (at the time of the violation) who they prefer to contract with for the SAP services.

The driver will pay for the evaluation by the SAP and any treatment required.

According to FMCSA regulations, prior to returning to duty, a driver must be evaluated by a SAP and must complete the treatment recommended by the SAP. Successful completion of a return-to-duty test and all follow-up tests is mandatory. (This provision in no way assures the employee of a right to continued employment by the City. The City retains the option to terminate an employee who fails to pass any required drug and/or alcohol test).

FOLLOW-UP

The driver who returns to duty will be required to submit to "Follow-up" testing. The SAP who has evaluated the driver will make the determination as to the number of tests and the length of time over which testing will be required. The minimum number of tests is at least six (6) tests during the first year after returning to duty. The testing may be required to continue for up to five (5) years.

The SAP will determine for what substances (i.e., drugs, alcohol, or both) the employee will be tested. The City will be responsible for ensuring that Follow-up testing is conducted and completed. Follow-up testing is in addition to all other DOT required testing. (The driver remains in the random pool and is subject to random testing at all times).

16.7L **Self-Identification Program**

City will not take disciplinary action against a driver who makes a voluntary admission of alcohol misuse or controlled substance use if:

- The admission is in accordance with the City's voluntary self-identification program;
- The driver does not self-identify in order to avoid Part 382 testing;
- The driver makes the admission of alcohol misuse or controlled substances use prior to performing a Safety-sensitive function; and
- The driver does not perform a Safety-sensitive function until the City is satisfied that the driver has been evaluated and has successfully completed education or treatment requirements in accordance with the self-identification guidelines.

The driver will be allowed to return to Safety-sensitive duties upon successful completion of an education or treatment program, as determined by a drug and alcohol abuse evaluation expert. Also, the driver must undergo:

- A return-to-duty test with a result indicating an alcohol concentration of less than 0.02; and/or

- A return-to-duty controlled substances test with a verified negative result.

16.7M **Discipline**

The City may not stand-down a driver before the MRO has completed their verification process unless the City has applied for and received an FMCSA-issued waiver.

According to FMCSA regulation, no person who has failed an alcohol or drug test, or refused to test, will be allowed to perform Safety-sensitive functions until the referral, evaluation, and treatment requirements have been complied with. The following City disciplinary measures apply to all reasonable suspicion, post-accident, and random tests.

Following a positive drug and/or alcohol test result, a pre-disciplinary meeting will be arranged as soon as possible by the supervisor. The Safety-sensitive Employee, who is off-duty at home, should be advised by the supervisor the purpose of the meeting and is entitled to have representation present.

If the Safety-Sensitive Employee is alleged to have violated this policy, they will be advised of the following:

- The employee will be subjected to disciplinary action up to and including termination for violation of the drug and alcohol policy;
- If the employee retains employment with the City, the employee may be referred to a SAP for an assessment and evaluation. The SAP will evaluate each employee to determine what assistance the employee needs in resolving problems associated with prohibited drug use and/or alcohol misuse. Upon recommendation of the SAP, the employee must pass the "Return-to-Duty" drug and/or alcohol test. A positive test result will be cause for termination with the City.
- The employee will be required to provide a check for the cost of the drug and/or alcohol test made payable to the third-party administrator to cover the expense of the Return-to-Duty test.
- The employee shall be subject to follow-up testing. A positive test result will be cause for termination with the City.

The employee will be required to sign Release of Information forms by Employee Assistance Program (EAP) to specified individuals with the City and third-party administrator.

In addition to the penalties imposed by DOT, a Safety-sensitive Employee whose reasonable suspicion test is positive, or who fails or refuses to submit to a reasonable suspicion test when directed to do so by the City, will be subject to disciplinary action, up to and including termination. An employee with a dilute negative test resulting from a Dilute Specimen will be required to retest.

The designated employee representative (DER) will contact the supervisor when the employee has passed the Return-to-Duty drug and alcohol test to set the date the employee can return to work.

SAPs are “gatekeepers” to the re-entry program when a Safety-sensitive Employee can return to duty. SAPs are required to have a specific background and specified licensing credentials, which include clinical experience and diagnosis and treatment of substance abuse-related disorders. SAPs must be knowledgeable about the SAP functions as it relates to employer interest in the Safety-sensitive Duties. SAPs must complete qualification training and fulfill obligations for continuing education courses. SAPs make recommendations to the employer about an employee’s readiness to perform Safety-Sensitive Duties. SAPs make return-to-duty recommendations according to their professional and ethical standards, as well as to DOT regulations.

**NOTE**: Only specifically identified counselors are qualified as SAPs; not all counselors, social workers, or other behavioral professionals meet the requirements to act as a SAP within the scope of DOT Regulations. SAPs may make recommendations for a client to submit to treatment, but the same person cannot act as a SAP and as the treatment provider.

# City of Chattanooga Employee Information Guide

| Policy No. 17.0 | Complaints and Grievances | Page 1 of 7 |
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| **Policy Sections:**<br>17.1 Filing a Complaint<br>17.2 Complaint Investigations<br>17.3 Complaint Process<br>17.4 Prohibition Against Retaliation<br>17.5 Grievance Policy | | Effective: 1/31/2023<br>Supersedes: |

## 17.1 Filing a Complaint

Any individual either experiencing or observing a suspected incident of discrimination or harassment should report the incident to their supervisor, to any Department Head, or the Human Resources Department. If the complaint involves the employee's supervisor, department director, or anyone else in a supervisory position over the employee, the employee should report the incident to the Human Resources Department. Any manager who receives a report of discrimination or harassment must immediately report it to the Chief Human Resources Officer or Deputy Chief Human Resources Officer.

Respect and dignity for others is the key to providing a discrimination and harassment-free workplace. All City of Chattanooga employees are responsible for helping to assure that we successfully avoid discrimination and harassment and their effects. Supervisors and others in positions of authority have a particular responsibility to proactively monitor and ensure that healthy, respectful, and professionally appropriate behaviors are exhibited at all times, and that complaints to the contrary are addressed in a timely manner.

Employees of the City of Chattanooga may consult with Human Resources on an informal basis to receive information and consultation in relation to specific situations without filing a formal complaint or grievance. In addition, employees may withdraw a formal complaint and seek mediation or an informal resolution at any point in the process. (NOTE: All sexual harassment complaints must be handled through the formal complaint process.)

Formal complaints are encouraged to be filed in writing and signed by the employee. An oral complaint should be transcribed into written format, signed and then submitted by the complaining employee. Once an employee files a written complaint, a letter is necessary to effectuate the withdrawal of a complaint.
The Human Resources Department reserves the right to conduct or continue an investigation of any and all complaints: formal/informal; written/oral; and pending/ withdrawn.

## 17.2 Complaint Investigations

The City of Chattanooga's policy is to investigate all such complaints thoroughly, promptly, and in an impartial manner. If such an investigation reveals that the complaint is valid, the City will administer disciplinary and other corrective action as appropriate to

stop the discrimination or harassment and prevent its recurrence. Such disciplinary action shall include any corrective action deemed necessary, up to and including immediate termination of employment. Discipline will be based on the seriousness and/or pervasiveness of the offense. To the fullest extent practicable, the City of Chattanooga will keep complaints, related investigations, and the terms of their resolution confidential. Retaliation against reporters of harassment or individuals who cooperate with a corresponding investigation is strictly prohibited, and will result in discipline up to and including termination.

All investigations will be conducted under the direct management of and/or direction of the Human Resources Department. The Human Resources Department may initiate individual investigations, conduct inquiries, or provide educational information in response to employee concerns and as deemed necessary by the Chief Human Resources Officer. In cases of a formal investigation, a written notification of a complaint or concern will be sent to the charged employee, the employee's immediate supervisor, and the Department Head. In cases where no individual supervisor can be identified, case results will be directed to the Administrator. The charged party (one who is accused of a harassing or discriminatory act) may be placed on paid administrative leave pending the conclusion of the investigation depending upon the seriousness and severity of the charges.

Employees are encouraged to file a complaint directly with the Human Resources Department. If submitted indirectly through a supervisor, the individual receiving the complaint must forward it to the Human Resources Department within 2 (two) business days.

17.3 **Complaint Process**

STAGE ONE (INFORMAL RESOLUTION)

Many employee relations matters arise from misunderstandings and failed communication. The Human Resources Department encourages matters to be resolved at the lowest possible levels and at the earliest stage possible. When no written complaint has been submitted to the Human Resources or employee's Department, they may collegially discuss the concerns directly with the individual(s) involved in an attempt to clear up any possible miscommunications that may exist. Attempting to use informal methods of conflict resolution does not forfeit the employee's right to move forward at a later date with a formal written complaint if the matter is not resolved in an informal manner. (NOTE: All sexual harassment complaints must be handled through the formal complaint process.) In all cases, the deadline for submission of a formal complaint is within three hundred (300) days of the last alleged act.

The Human Resources Department provides consultation to both employees and managers seeking approaches to resolve issues in an informal manner. Collaborative resolutions at the lowest possible levels and the earliest time periods are strongly encouraged. The Human Resources Department promotes respectful communication as a viable option for settling disputes. Informal complainants may seek an informal resolution as follows:

1. If the matter is not resolved or the employee would prefer not to discuss the situation with the individual involved, then the employee should take the next step and discuss their concerns with their immediate supervisor; and
2. If the concern remains unresolved or at any time the employee desires, the next step is to schedule an appointment to discuss the matter with the Department Head.

STAGE TWO (FORMAL WRITTEN COMPLAINTS)

If the informal resolution attempts between the parties do not result in a resolution of the matter or the employee seeks to skip informal resolution, the complaining party then has the option to request that the Human Resources Department conduct a formal investigation. The request for a formal investigation should be dated and issued in writing as soon as the employee is aware of the conduct or knows that informal resolution is unsuccessful. The complainant is required to provide any facts and/or data that would substantiate discriminatory allegations.

The charged party (one who is accused of a harassing or discriminatory act) will be allowed to review the written allegations and to provide a written response to the charges after the review. After reviewing the allegations, responses, and evidence from both parties, the Human Resources Department will make a determination as to whether or not to proceed with further investigations.

Once a formal written complaint has been filed, the matter has gone past the level of informal resolution. At this stage, employees should not attempt to resolve a formal harassment complaint on a one-on-one basis or confront an employee (either the complaining employee or the accused) in relation to an investigation that is either open or closed.

In cases where the Human Resources Department moves forward with a formal investigation, witnesses, co-workers, and management may be questioned. Both the accused and the complainant will also have an opportunity to present their responses during an investigatory interview.

RESPONSIBILITIES

Parties involved in the investigation (complainant, charged party, and witnesses) should not discuss their participation in or information relative to the process so as to maintain the integrity of the investigation. Managers and all involved parties are expected to maintain the confidentiality of employees and other individuals directly involved in the complaint process, to the extent possible.

The complainant or charging party must sign a statement indicating that the allegations in the complaint are honest, true, accurate, and not exaggerated. When issuing a statement or answering questions in connection with an inquiry, an employee must, to the best of their knowledge and belief, be truthful in all of their oral and written responses. Individuals (including complainants, accused parties, employees, administrators, witnesses, managers,

supervisors, information gatherers, persons submitting data and others) who fail to cooperate with the Human Resources Department, are found to have provided false information, to have filed a frivolous claim, or to have altered written data in relation to an inquiry or investigation will be subject to disciplinary action.

All managers and/or employees connected to the City of Chattanooga, Tennessee are required to:

1. Fully cooperate in investigations;
2. Provide any information (written, e-mailed, texted, or oral) connected to an investigation;
3. Make themselves available for questioning in an interview conducted by the Human Resources Department; and
4. Provide truthful and accurate statements to the complaint investigator(s).

Supervisors should not presume any employee (either the accused or the complainant) to be guilty of anything or institute disciplinary actions merely based on a pending harassment claim.

COMPLAINT CLOSURE

At the conclusion of the investigation, the Human Resources Department will send its findings to the Department Administrator of the accused. Individuals found to be in violation of the harassment policy shall be issued disciplinary action, as deemed by the Chief Human Resources Officer, and consistent with and proportional to these findings.

The Department Head or the highest-level supervisor over the employee is required to initiate disciplinary action within five (5) working days of receiving a written finding and confirmation of harassment, and do a follow-up letter to advise the Chief Human Resources Officer of the final actions taken at the departmental level. In cases where systemic violations relating to a department are found, the Chief Human Resources Officer, the City Attorney's Office and the Mayor's Office shall collaborate to bring about corrective actions. This shall not eliminate actions against individuals within the department found to be in violation of the harassment policy. A written letter of resolution will be issued by the Chief Human Resources Officer and sent to the complainant and the charged individual. In certain cases where the Human Resources Department deems that the accused may have more likely than not violated the harassment policy or which may pose specialized concerns, the Human Resources Department may consult with the City Attorney's Office and/or seek a detailed legal case review in conjunction with the final investigative findings.

## 17.4 **Prohibition Against Retaliation**

Complainants, employees, management, participants, Human Resources staff and witnesses are protected against any form of organizational, administrative, or management retaliation due to, or in any part based on, participation in a complaint, inquiry, and/or investigation. A manager may not cause an adverse employment action or otherwise retaliate against an individual for filing a complaint of discrimination or participating in a discrimination proceeding. If employees believe they are being subjected to retaliation, they should notify the Human Resources Department in writing as soon as possible of the

alleged retaliatory act. The written notice should outline in detail the allegations and dates of the specific retaliatory acts. Department managers and any other employees and officials found to have committed verifiable acts of retaliation against an individual in connection with a harassment claim will be subjected to disciplinary action.

While employees are protected from retaliation for filing complaints, employees who knowingly file falsified charges are subject to disciplinary action.

## 17.5 Grievance Policy

A grievance is a complaint by a City employee that they have been treated unfairly and/ or in violation of their rights under City policies with regard to employment. The Chief Human Resources Officer or designee shall be available to talk with any City employee concerning the grievance process or any other matter. The Chief Human Resources Officer or designee will make every effort to respect privacy and maintain confidentiality. A formal grievance may be filed for a variety of reasons, including but not limited to the following:

1. Violation of City Policy
2. Violation of City Code or Charter
3. Violation of Department rules or operating procedures
4. Promotions
5. Employee Performance Evaluations
6. Disciplinary Actions not involving the employee's own suspension, demotion or dismissal

Position reclassifications may be a reason for filing a grievance if the employee feels that the action may have been a punitive reclassification. However, reclassifications, reassignments, and transfers within the same pay range and on the basis of required business operations are not adverse employment actions that may be considered grievances. Reductions in force may be considered an action to be grieved if the employee believes that the Department inconsistently or improperly applied the City's reduction in force policy or plan.

An employee is not required but is urged to attempt to resolve any grievance informally with their immediate supervisor within five (5) business days of the grievable action and prior to starting the formal grievance process. If informal discussion does not occur and/or resolve the matter, an employee may file a formal grievance.

An employee desiring to file a formal grievance must complete the City's Grievance Form (Employee portal>Human Resources Documents>HR Forms) and submit to their immediate supervisor unless that supervisor is directly involved or is the reason for the grievance, in which case the employee shall submit the Grievance Form to the next level supervisor within their department. The Grievance Form is required to be submitted to the appropriate supervisor within ten (10) business days of the grievable action; however, an employee in the Fire Department working twenty-four (24) hour shifts must file a written grievance within four (4) twenty-four (24) hour shifts of when the grievable action was effective. The Grievance Form will include each step of the grievance process with

specifics regarding timeframes, the basis for the grievance and the relief sought and whether at each step the supervisors agree or disagree with, or will modify, the relief sought. The Grievance Form will include an entry for the time and date of receipt and a space for the employee and each level of supervisor to sign the grievance. A grievance must be signed by the employee and must include the following:

1. A clear, concise and factual statement of the specific wrongful act or harm done
2. A request to have the meeting done remotely if the employee is teleworking
3. A statement of the remedy or adjustment sought
4. Citation of any rules or regulations, the violation of which constitutes the basis of the grievance

Within five (5) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the receipt of the grievance, the supervisor shall meet with the employee and attempt to resolve the grievance insofar as it is within their power to do so. Further, the supervisor shall render a decision in writing and provide a copy of same to the aggrieved employee within three (3) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the date the supervisor meets with the aggrieved employee.

If the grievance is beyond the authority of the supervisor to resolve or if the employee disagrees with the supervisor's decision, the employee is responsible for submitting the Grievance Form and all necessary documentation to the Department Head or designee within three (3) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the employee's receipt of the supervisor's decision concerning the grievance.

Within five (5) business days of the receipt of the Grievance Form, the Department Head or designee shall meet with the employee and attempt to resolve the grievance insofar as it is within their power to do so. Further, the Department Head or designee shall render a decision in writing and provide a copy of same to the aggrieved employee within three (3) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the date the Department Head or designee meets with the aggrieved employee. Grievances which cannot be resolved at the Department Head or designee level may be submitted to the City’s Grievance Review Committee.

If the employee chooses to continue the grievance to the Grievance Review Committee, the employee is responsible for ensuring the Grievance Form and all necessary documents are submitted to the Chief Human Resources Officer or designee within three (3) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the receipt of the Department Head or designee’s decision concerning the grievance.

The Grievance Review Committee shall consist of three employees of the City to include the Deputy Chief Human Resources Officer or designee, a Human Resources Business Partner/Generalist and one Supervisor/Manager appointed by the Chief Human Resources Officer that is not directly involved in the grievance to be heard. The Chief Human Resources Officer or designee will schedule and coordinate the grievance reviews

according to the order in which they were submitted to the Chief Human Resources Officer or designee. The Grievance Review Committee shall meet within 17 business days of the receipt of the Grievance Form and all necessary documents and will hear the basis of the employee's grievance. The Grievance Review Committee shall render a decision and this will be communicated by the Chief Human Resources Officer or designee in writing to the aggrieved employee within three (3) business days (or two (2) twenty-four (24) hour shifts if the employee is working such shifts) of the decision. The decision of the Grievance Review Committee shall be final with respect to grievances and relief sought.

Failure at any step in the grievance procedure to make and communicate a decision in writing within the specified time limits shall constitute a denial of the relief sought and shall permit the grievance to be appealed to the next step by the employee. The employee's failure to file a grievance within the time specified in this section constitutes abandonment of the grievance by the employee.

The employee's failure to continue a grievance based on the decision by the supervisor or the Department Head or designee within the applicable time period specified in this section shall constitute abandonment of the grievance by the employee. A grievance may also be terminated at any time upon receipt of a signed statement from the employee requesting such termination.

The grievance procedure shall not be used as a means of collectively bringing about changes in wages, hours or other conditions of employment applicable to other employees.

# City of Chattanooga Employee Information Guide

| Policy No. 18.0 | Conduct Policy | Page 1 of 8 |
|---|---|---|
| **Policy Sections:**<br>18.1 Professional Conduct<br>18.2 Reporting Arrests, Charges or Indictments<br>18.3 Abusive Conduct<br>18.4 Workplace Violence | | Effective: 1/31/2023<br>Supersedes: |

## 18.1 Professional Conduct

Employees are representatives of the City, and as such, are expected and encouraged to conduct themselves at all times in a manner so as not to bring discredit upon the City of Chattanooga. Any contact with the general public should be handled in a professional manner. Professionalism, politeness and courtesy are essential. Lack of courtesy and professionalism may result in disciplinary action.

## 18.2 Reporting Arrests, Charges or Indictments

REPORTING REQUIREMENTS

Any City employee arrested, charged or indicted for a crime, other than a minor traffic offense, shall report such arrest, charge or indictment to their respective Department Head within one (1) business day. In the case of an employee who is incarcerated, a member of their immediate family shall contact the Department Head on behalf of said employee. Failure to report an arrest, charge or indictment for a crime within the time specified shall result in disciplinary action up to and including termination of employment.

In addition, any City employee whose job classification requires a medical license, must also follow the T.C.A §68-140-311, relative to medical services for reporting convictions to the Tennessee Emergency Medical Services Board.

Employees are required to provide documentation for an arrest or charge for a Class A misdemeanor or felony upon request to the Department Head.

Employees charged or indicted with a crime shall be required to inform their Department Head within one (1) business day on the outcome of the criminal case.

ARRESTS, CHARGES OR CONVICTIONS RELATED TO DUTIES OR RESPONSIBILITIES OF EMPLOYEES

In the event a nexus occurs between the nature of the arrest, charges or indictment to the employees' duties and responsibilities of their position, the Mayor or Department Head shall have the option of terminating the employment of said employees. A judgment on a verdict or a plea of guilty or nolo contendere for employees arrested, charged or indicted

for a Class A misdemeanor or a felony shall result in termination of employment. Any employee convicted of any misdemeanor committed in the course and scope of their duties as a City employee shall be subject to disciplinary action. Such disciplinary action may include dismissal if in the opinion of the Mayor or the Department Head, after taking all mitigating factors into consideration, the conduct of the employee requires dismissal. Any employee convicted of a misdemeanor and incarcerated for fifteen (15) consecutive days or more shall be dismissed.

OTHER ARRESTS, CHARGES AND INDICTMENTS

Any such employee arrested and charged with a Class A misdemeanor or felony shall be placed on administrative leave with pay for a maximum of eight (8) business days to allow the City time to review the nature of the crime, the facts and circumstances.

If the nature of the crime, the facts and circumstances are substantiated by the City, employees arrested, charged or indicted for a Class A misdemeanor or a felony shall be placed on leave without pay. The period of leave without pay for employees arrested, charged or indicted on criminal charges shall not exceed six (6) months. In extenuating circumstances, an employee may request a thirty (30) day extension of leave without pay up to a twelve (12) month maximum of leave without pay. The request must be authorized by the Department Head. At the conclusion of the leave period, the Department will determine whether disciplinary action is warranted.

If any employee is found guilty of a Class B or greater misdemeanor which would have otherwise disqualified such employee for employment in the position currently occupied, such employee shall be subject to disciplinary action or an employment status change to another employment position, if available, for which such employee is qualified notwithstanding the misdemeanor conviction.

Any employee who commits a verifiable action based on gross misconduct shall be dismissed.

If an employee has a Class A misdemeanor or felony charge reduced to a lesser misdemeanor charge, disciplinary action may be taken against the employee. If an employee is arrested, charged or indicted on a Class A misdemeanor, a felony or any other misdemeanor has said charges dismissed for whatever reason and is on a leave with or without pay, such employee shall be returned to duty unless there is sufficient evidence to show that the employee is not a fit or suitable employee, then they shall be dismissed.

An employee placed on unpaid leave for up to six (6) months of time immediately following an arrest, charge, or indictment shall have the maximum of six (6) months of back pay or leave restored if charges are dropped or is found not guilty. This provision shall not apply if an employee pleads guilty or enters into a plea agreement on said charges.

If a former employee arrested, charged or indicted on a Class A misdemeanor, a felony or any other misdemeanor has said charges dismissed for whatever reason and was terminated, such employee may apply for an available advertised position for which they meet the minimum qualification and shall be treated as any other applicant.

18.3 **Abusive Conduct**

The City of Chattanooga is firmly committed to a workplace free from abusive conduct. We strive to provide high quality services in an atmosphere of respect, collaboration, openness, safety and equality. All employees have the right to be treated with dignity and respect. To that end, employees are expected to exhibit proper behavior and conduct themselves in a manner that demonstrates professionalism and respect for others in the workplace. No employee shall engage in threatening, violent, intimidating, or other abusive conduct or behaviors.

All complaints of negative and inappropriate workplace behaviors will be taken seriously and followed through to resolution. Employees who file grievances to address their complaint of abusive conduct will not suffer negative consequences for reporting others for inappropriate behavior. This policy applies to all employees of the City and staff working on behalf of the City. This policy applies to any sponsored program, event or activity including, but not limited to, sponsored recreation programs and activities; and the performance by officers and employees of their employment related duties. The policy includes electronic communications by any City employee.

DEFINITION OF ABUSIVE CONDUCT

Abusive conduct includes acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, which can include but is not limited to:

1. Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
2. Verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or
3. The sabotage or undermining of an employee's work performance in the workplace.

A single act generally will not constitute abusive conduct, unless such conduct is determined to be severe and egregious.

Abusive conduct does not include:

1. Disciplinary procedures in accordance with adopted policies of the City of Chattanooga.
2. Routine coaching and counseling, including feedback about and correction of work performance.
3. Reasonable work assignments, including shift, post, and overtime assignments.
4. Individual differences in styles of personal expression.
5. Passionate, loud expression with no intent to harm others.
6. Differences of opinion on work-related concerns.
7. The non-abusive exercise of managerial prerogative.

## CITY LEADER RESPONSIBILITY

Supervisors and others in positions of authority have a particular responsibility to ensure that healthy and appropriate behaviors are exhibited at all times and that complaints to the contrary are addressed in a timely manner. Supervisors will:

1. Report known incidents involving workplace abuse, intimidation, or violence to the Department Head and the Human Resources Department office within 2 (two) business days.
2. Take reasonable steps to protect the grievant, including but not limited to, separation of employees involved.
3. Notify the person complained against that a grievance has been made against them and inform them of the grievance procedure.
4. Provide a working environment as safe as possible by having preventative measures in place and by dealing immediately with threatening or potentially violent situations;
5. Provide good examples by treating all with courtesy and respect;
6. Ensure that all employees have access to and are aware of the abusive conduct prevention policy and explain the procedures to be followed if a complaint of inappropriate behavior at work is made;
7. Be vigilant for signs of inappropriate behaviors at work through observation and information seeking, and take action to resolve the behavior before it escalates;
8. Respond promptly, sensitively and confidentially to all situations where abusive behavior is observed or alleged to have occurred;
9. Inform any employees exhibiting continuing emotional or physical effects from the incident in question of established employee assistance programs or other available resources; and
10. When abusive conduct has been confirmed, the supervisor and the City will continue to keep the situation under review and may take additional corrective actions if necessary. Preventative measures may also be taken to reduce the recurrence of similar behavior or action.

## EMPLOYEE RESPONSIBILITY (INCLUDING WITNESSES)

Employees shall treat all other employees with dignity and respect. No employee shall engage in threatening, violent, intimidating or other abusive conduct or behaviors. Employees are expected to assume personal responsibility to promote fairness and equity in the workplace and report any incidents of abusive conduct in accordance with this policy. Employees should cooperate with preventative measures introduced by supervisors and recognize that a finding of unacceptable behaviors at work will be dealt with through appropriate disciplinary procedures.

## RETALIATION

Retaliation is a violation of this policy. Retaliation is any act of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or individuals exercising rights under this policy.

## TRAINING FOR SUPERVISORS AND EMPLOYEES

All supervisors and employees must undergo training on abusive conduct prevention as directed by the Human Resources Department. This training will identify factors that define and contribute to a respectful workplace, familiarize participants with their individual responsibilities under this policy, and provide steps to address an abusive conduct incident.

## REPORTING

Any employee who feels they have been subjected to abusive conduct shall report the matter orally or in writing to a supervisor, Division Director, Department Head, appointing authority, elected official, the Human Resources Department, or by utilizing any of the reporting measures described in the Whistleblower Protection policy in this Guide. Employees who believe they are being abused by their immediate supervisor should report their complaints to their division director or Department Head.

Any employee seeking to file a complaint should ensure they present precise details of each incident of abusive conduct, to include dates, times, locations and any witnesses that may corroborate their claim. If an employee wishes to file a formal complaint with the Human Resources Department, it must be documented in writing. Their concerns will then be addressed under the direction of the Chief Human Resources Officer, and in accordance with Stage Two of the Complaint Process detailed in the City's Anti-Harassment Policy section.

## WITNESSES

An employee who witnesses or is made aware of behavior that may satisfy the definition of abusive conduct should report any and all incidents to their supervisor, division director, Department Head, appointing authority, elected official, or the Human Resources Department.

## SUPERVISORS

Supervisors must timely report known incidents involving workplace abuse, intimidation, or violence to the Department Head and the Human Resources Department. Supervisors and Department Heads are required to take reasonable steps to protect the complainant, including but not limited to, separation of employees involved. The person complained against will be notified that a claim has been made against them, and of the abusive conduct complaint resolution process.

## CORRECTIVE ACTION

The City of Chattanooga will take immediate and appropriate corrective action when abusive conduct has been confirmed. Remedies may be determined by weighing the severity and frequency of the incidences of abusive conduct, and in accordance with existing disciplinary policies of the City.

Any employee who engages in conduct that violates this policy or who encourages such conduct by others will be subject to corrective action. Such corrective action may include but is not limited to participation in counseling, training, and disciplinary action up to and including termination, or changes in job duties or location.

Supervisory personnel who allow abusive conduct to continue or fail to take appropriate action upon learning of such conduct will be subject to corrective action. Such corrective action may include but is not limited to participation in counseling, training, or disciplinary action up to and including termination, or changes in job duties or location.

While the City of Chattanooga encourages all employees to raise any concern(s) under this policy and procedure, the City recognizes that intentional or malicious false allegations can have a serious effect on innocent people. Individuals falsely accusing another of violations of this policy will be disciplined in accordance with the disciplinary policy of the City.

CONFIDENTIALITY

To the extent permitted by law, the City of Chattanooga will maintain the confidentiality of each party involved in an abusive conduct investigation, complaint or charge, provided it does not interfere with the ability to investigate the allegations or to take corrective action. However, state law may prevent the City from maintaining confidentiality of public records.

18.4 **Workplace Violence**

The City of Chattanooga is committed to providing a safe environment for working and conducting business. The City will not tolerate acts of violence committed by City employees or members of the public on City of Chattanooga property or between City employees. Any unlawful violent actions committed by employees or members of the public while on City of Chattanooga property or while using City of Chattanooga facilities will be prosecuted as appropriate. The City intends to use reasonable legal, administrative, and disciplinary procedures to secure the workplace from violence and to reasonably protect employees and members of the public.

The City of Chattanooga remains committed to maintaining a work environment that is free of violence or intimidation. In keeping with this strong commitment, the City will not tolerate any violence or threats against employees by anyone, including any supervisors, coworkers, vendors, clients, customers, or visitors.

THREATS OR ACTS OF VIOLENCE

"Threats or acts of violence" are behavior or actions that a reasonable person would perceive as a threat against oneself, another person, or property. Actions or behavior that are sufficiently severe, offensive, or intimidating and/or alters employment conditions will be subject to discipline up to and including termination.

The list of behaviors or actions, while not exhaustive, provides examples of conduct that is prohibited:

- Causing physical injury to another person;

- Making threatening remarks;
- Acting out in an aggressive or hostile manner that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- Committing acts motivated by, or related to, sexual harassment or domestic violence;
- Intentionally damaging employer property or property of another employee; or
- Possession or use of an illegal weapon as defined by T.C.A. §39-17-1302 while on City owned, leased, or controlled property, or while operating City owned, leased, or controlled vehicles.

Under Tennessee law, however, employees who have valid handgun carry permits are allowed to bring a firearm and ammunition onto the City's parking lot provided that the firearm and ammunition are kept in the employee's vehicle in accordance with T.C.A. §39-17-1313. The firearm and ammunition, however, may not be removed from the vehicle while it is on City property. Removal of the firearm and ammunition from the vehicle may result in discipline, up to and including immediate discharge. The City will not discharge or take any adverse employment action against an employee solely for transporting or storing a firearm or firearm ammunition in an employer parking area in a manner consistent with T.C.A. §39-17-1313(a).

PROCEDURES FOR DEALING WITH THREATS OR ACTS OF VIOLENCE IN THE WORKPLACE

When a threat or violent act occurs:

*If the situation constitutes an emergency:*

1. CALL 911. Ensure personal safety, do not take unnecessary risks in aiding others or confronting violence prone individuals.
2. After 911 has been contacted, contact an immediate supervisor, your department safety liaison, and the Director of Safety, Compliance & Risk in the Human Resources Department. Facilities with on-site security guards should also be notified of the situation.
3. Direct employees and/or visitors to take basic precautionary measures such as: securing/locking entrances, rerouting office/worksite traffic and other steps which appear appropriate for the circumstances.
4. Maintain lines of communication on a need-to-know basis among staff to minimize misinformation, panic, and confusion.

*If the situation does not constitute an emergency:*

1. Contact your immediate supervisor, the appropriate Department Head, Safety Liaison, and the Director of Safety, Compliance, & Risk Management in the Human Resources Department.
2. Document all pertinent information of the situation, i.e., time, date, who, when, what transpired, etc.
3. Submit written documentation to both the Department Head and the Director of Safety, Compliance, & Risk Management within 24 hours of the incident.

All information is considered confidential pending an investigation.

Any employee who feels threatened by violence, personal harm to themselves or others, or in danger of criminal elements has the right and responsibility to call 911. False claims of emergencies to 911 are subject to T.C.A. Sec. 39-16-502. All reports or statements to a law enforcement officer of threats or violence will be evaluated immediately and appropriate action will be taken in order to protect the employee from further violence. Appropriate disciplinary action will be taken when it is determined that a City of Chattanooga employee has committed an act of violence. Where City of Chattanooga employees exhibit such behavior, the City of Chattanooga reserves the right, under the direction of the Chief Human Resources Officer or designee, to determine fitness for duty. Employees may be suspended with or without pay pending this fitness for duty evaluation.

Where issues of employee safety are of concern, Department Heads and supervisors should evaluate the workplace and make appropriate recommendations regarding a reasonable response.

Additionally, supervisors are encouraged to consult with the Director of Safety, Compliance, & Risk Management and/or Employee Assistance Program about appropriate resolution of instances of workplace violence. Each employee of the City of Chattanooga and every person on City of Chattanooga property is encouraged to report threats or acts of physical violence of which they are aware. Workplace violence shall constitute a violation of City of Chattanooga policies. Violation by an employee of any provision of this policy may lead to disciplinary action up to and including termination.

# City of Chattanooga Employee Information Guide

| Policy No. 19.0 | Performance, Counseling and Discipline | Page 1 of 10 |
|---|---|---|
| **Policy Sections:**<br>19.1 Counseling<br>19.2 Performance Improvement Plan (PIP)<br>19.3 Attendance<br>19.4 Disciplinary Actions<br>19.5 Progressive Corrective Actions<br>19.5A Demotions<br>19.5B Suspension<br>19.5C Dismissal<br>19.5D Last Chance Agreement<br>19.5E Disciplinary Actions – Serious or Repeat Offenses<br>19.6 Pre-Disciplinary (Loudermill) Meetings<br>19.7 Collaborative Mediation<br>19.8 Post-Disciplinary Appeals | | Effective: 4/2/2024<br>Supersedes: 1/31/2023 |

## 19.1 Counseling

Supervisors are expected to provide timely and appropriate feedback to employees when performance tasks or behavior becomes a concern. This feedback is usually verbal, specific and held in a confidential setting. If a pattern of poor performance continues, or if an employee is unaware or needs clarification of a procedure, policy or process the supervisor may document the concerns in a Letter of Counseling. The Letter of Counseling is not considered to be discipline but failure to make improvements or continued lack of understanding may require a Performance Improvement Plan (PIP) and/or will begin the Progressive Corrective Action Process. A Letter of Counseling will be administered by supervisors to assist employees with performing their jobs properly. A rule violation which reflects a work performance, conduct, or attendance problem may be the subject of a Letter of Counseling. The object is to communicate to the employee that a problem exists and develop effective solutions to the problem. The supervisor will maintain a copy of the Letter of Counseling in the supervisor's departmental file and forward the original to Human Resources for inclusion in the employee's personnel file. If a Letter of Counseling is administered, the supervisor shall provide follow up documentation within six (6) months of the Letter of Counseling to track progress and document performance improvement or continued areas for improvement.

## 19.2 Performance Improvement Plan (PIP)

The Performance Improvement Plan (PIP) is a proactive approach to identifying, analyzing, and addressing performance issues before they deteriorate to the point of necessitating corrective action. The PIP is designed to facilitate constructive discussion between an employee and their supervisor and to clarify the work performance to be improved. A PIP is not a required part of the Progressive Corrective Action Process. A

PIP may be used as a coaching tool for employees with performance concerns that do not warrant the Progressive Corrective Action Process, or may be used in conjunction with the Progressive Corrective Action Process if additional assistance is necessary in assisting the employee to meet performance objectives. The Chief Human Resources Officer or designee may be consulted in the development and implementation of a PIP as needed.

1. The PIP process should address performance discrepancies, provide the employee an opportunity to improve their performance, and monitor progress throughout the established improvement period.
2. The goals and objectives of the PIP should be measurable, specific, achievable, relevant and time-bound.
3. While a PIP is in place, the supervisor will meet with the employee on established periodic review dates to discuss progress made toward stated performance goals and objectives.

A PIP will remain in effect for the length of time deemed appropriate based on the improvement goals and standards necessary to meet a satisfactory level of performance, which generally should not exceed ninety (90) days. A PIP will remain a permanent part of the employee's official personnel file.

## 19.3 Attendance

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

If an employee must be late for work or absent because of illness or an unforeseen circumstance, they shall personally notify his immediate supervisor as soon as possible by telephone. Certain departments may designate a specific call-in time, so the employee must adhere to departmental/divisional call-in protocol. A doctor's note may be required when returning to work from absence due to illness lasting three (3) or more days.

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

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

## 19.4 Disciplinary Actions

Disciplinary action is necessary from time to time in order that the City operates in an effective and efficient manner. Disciplinary action may take the following recognized forms: Progressive Corrective Action, suspension, demotion, or dismissal. Disciplinary

action up to and including dismissal may be taken for any just cause including, but not limited to, the following:

1. Incompetence or inability to perform duties of position.
2. Inefficiency or negligence in the performance of one's duties, abusive or negligent use of tools or equipment and/or careless or blatant waste of materials.
3. Theft, unauthorized removal, wrongful possession, or deliberate destruction of property, merchandise, equipment, or possessions belonging to residents we serve, fellow employees, or the City.
4. Unlawful manufacture, distribution, dispensation, possession, sale, purchase or use of illegal drugs, controlled substances, or alcohol while on the job, on City owned or leased property or while operating City owned, leased, or controlled equipment or vehicles.
5. Fighting with, abusive or threatening conduct or speech toward any resident we serve, fellow employees or supervisors.
6. Insubordination or refusal to obey or willful failure to carry out verbal or written instructions of supervisory personnel.
7. Failure to follow safety rules and/or health practices.
8. Improper parking of motor vehicles, reckless driving, speeding, and violation of motor vehicle laws while operating City vehicles or personal vehicles while conducting City business.
9. Possession or use of a firearm, illegal knife as defined by Tennessee law, explosive, and other prohibited weapons of any kind while on City owned, leased, or controlled property, or while operating City owned, leased, or controlled vehicles.

Under Tennessee law, however, employees who have valid handgun carry permits are allowed to bring a firearm and ammunition onto the City's parking lot provided that the firearm and ammunition are kept in the employee's vehicle in accordance with T.C.A. §39-17-1313. The firearm and ammunition, however, may not be removed from the vehicle while it is on City property. Removal of the firearm and ammunition from the vehicle may result in discipline, up to and including immediate discharge. The City will not discharge or take any adverse employment action against an employee solely for transporting or storing a firearm or firearm ammunition in an employer parking area in a manner consistent with T.C.A.§ 39- 17-1313(a).

10. Falsification or alteration of any official document, form or City record including time records, employment application, etc.
11. Excessive absenteeism or tardiness.
12. Unauthorized absence from the work area or unauthorized extended lunch or break periods.
13. Job Abandonment: unreported or improperly reported absences of three (3) consecutive scheduled workdays without directly notifying the appropriate supervisor on duty. This form of separation will be considered and reported as a voluntary resignation.
14. Disclosure of confidential information to unauthorized persons.
15. Dissemination of false or malicious information about the City, employees or the residents we serve.

16. Sleeping during working hours.
17. Gambling on City premises or while conducting City business.
18. Substantiated acts of willful harassment including such conduct as slurs, jokes, intimidation, or other verbal or physical attacks upon a person for any reason.
19. Substantiated acts of discrimination that denies equal treatment in all terms, conditions, and privileges of employment as defined by applicable Civil Rights Laws.
20. Participating in a strike, work stoppage, work slow-down, sick-in or other so called job actions.
21. Conviction, plea of guilty or nolo contendre of a felony or misdemeanor or any activity that is inconsistent, incompatible or in moral, legal or technical conflict with the employee's duties, functions and responsibilities as a City employee.
22. Engaging in conduct or acting in any manner, on or off duty that is unbecoming a public employee.
23. Failure to report reasons for absence or tardy on a timely basis and/or disregard for department time reporting procedures.
24. Failure to wear appropriate clothing or appearance on the job in consideration of safety, sanitation, and public contact.
25. Unauthorized distribution of literature and/or soliciting during working hours and during working time.
26. Posting unauthorized notices.
27. Violation or failure to follow the guidelines in this Guide or any department or City policy, procedure, ordinance, rule, regulation or law or violation of any applicable state law, rule or regulation subject to the provisions of these personnel policies.

## 19.5 **Progressive Corrective Actions**

When an employee's performance warrants formal disciplinary action, the supervisor may discipline the employee using a system of progressive corrective actions. This system of progressive corrective action is used to bring unacceptable conduct or failure to meet performance standards and expectations to the employee's attention and seek a solution that will lead to the employee's success. While this is designed to be a progressive process, some corrective action steps may be skipped depending on the severity of the performance issue. Department Heads also have the ability to discipline employees for more serious offenses through other means of disciplinary actions covered in this policy. Progressive Corrective Action may result from an accumulation of minor infractions, from a single infraction, or the employee's failure to meet performance standards and expectations. Corrective Actions are to be initiated by the employee's supervisor in a timely manner and as soon as reasonable and will be reviewed by the appropriate Department Head prior to filing in the employee's personnel file.

STEPS IN PROGRESSIVE CORRECTIVE ACTION PROCESS

1. First Written Reprimand
   A supervisor shall meet with the employee, discuss the performance concern, and work together to find a solution. This solution will be documented in the First Written Reprimand and signed by both the supervisor and the employee. If the employee

refuses to sign the document, the supervisor must make a statement to that fact on the document and initial.

2. Second Written Reprimand
   A new or repeated infraction will be documented on the Second Written Reprimand and signed by both the supervisor and the employee. If the employee refuses to sign the document, the supervisor must make a statement to that fact on the document and initial. The employee will receive a copy if requested and the original will be filed in the employee's personnel file.
3. Suspension
   If unacceptable conduct continues or any other policy violations occur, an unpaid suspension of up to thirty (30) days may be issued by the supervisor.
4. Dismissal
   If unacceptable conduct continues or any other policy violations occur, the final step in the Progressive Corrective Action Process is dismissal.

Supervisors will always consult with the Chief Human Resources Officer or designee in determining the appropriate steps for corrective action. The steps, as listed, should normally be followed in order. There may be severe infractions or performance issues that may cause a supervisor to skip steps in this process, or if the performance issue is of a serious offense, to pursue other disciplinary measures such as suspension, demotion or immediate dismissal options. On these occasions the Department Head may initiate appropriate disciplinary measures and the Chief Human Resources Officer and Chief Operating Officer or designee will be consulted prior to taking action. In accessing an employee's personnel file to determine the next step in the Corrective Action Process, the supervisor shall review and determine if the employee has any documented corrective actions within the previous twelve (12) months. Any corrective action older than twelve (12) months generally will not be considered in the Progressive Corrective Action process. However, if there is evidence of a pattern of behavior, all corrective actions may be considered in determining the appropriate step in the Corrective Action Process. The corrective action documents will not be removed from any personnel file unless the action is reversed by the Department Head, the Grievance Review Committee, or an Administrative Law Judge with documentation provided.

### 19.5A **Demotions**

A Department Head may demote an employee to a vacant position in a lower pay grade for which the employee is qualified within the employee's department or within the City if a position is available after a Disciplinary Hearing. If the demotion is to a position outside the Department Head's responsibility, the Chief Human Resources Officer and both Department Heads shall collaborate to ensure the demotion is appropriate.

### 19.5B **Suspension**

A Department Head may suspend an employee without pay for up to thirty (30) workdays following a Disciplinary Hearing. PTO (paid time off) may not be taken in lieu of disciplinary suspension without pay.

19.5C **Dismissal**

Disciplinary separation from employment results when an employee does not immediately improve and maintain an overall satisfactory work record following lower levels of discipline or when an employee commits an act so serious that corrective discipline is inappropriate. Any employee who commits a verifiable action based on gross misconduct may be immediately placed on administrative leave with pay for up to five (5) business days by the Department Head or designee pending a Disciplinary Hearing.

19.5D **Last Chance Agreement**

When an employee's commitment to improve is not immediately met and sustained during the Progressive Corrective Action Process and dismissal is imminent after a Disciplinary Hearing, the Department Head or their designee may offer the employee the opportunity to correct unacceptable behavior(s) in lieu of dismissal by signing a Last Chance Agreement. The Last Chance Agreement shall specify the employee's unacceptable behaviors which need to be corrected. The Last Chance Agreement shall also state that the employee will not be dismissed for the specified unacceptable behavior(s) unless subsequent violation(s) of the unacceptable behavior(s) listed shall occur again in a set time period. If subsequent violation(s) of the unacceptable behavior(s) occur during the time period specified, the employee will be immediately dismissed following a Disciplinary Hearing, and the employee waives their right to appeal the dismissal by requesting a review to the City Council or appealing in a court of law. Before the Last Chance Agreement can be enforced, evidence of the subsequent violation(s) of the specified unacceptable behavior(s) must be presented to the Department Head who shall make the final determination relative to the implementation of the Last Chance Agreement. The employee shall be given the opportunity to take one (1) day of unpaid administrative leave to consider signing the Last Chance Agreement. The Last Chance Agreement shall be signed and notarized by the employee and the Department Head and placed in the employee's personnel file.

19.5E **Disciplinary Actions – Serious or Repeat Offenses**

The Progressive Corrective Action process does not eliminate the need for more punitive actions if the employee fails to make needed changes in their work performance. The circumstances surrounding an offense, such as the severity of the misconduct, the number of times it has occurred and any previous counseling, may suggest what action may be taken.

No City employee may be demoted, suspended or dismissed for political reasons or for any other unjust or arbitrary cause, or because of age, sex, race, color, religion, disability, national origin, protected veteran or military status, sexual orientation, gender identity, ethnic origin, political affiliations, genetic information, marital status or any other protected basis in accordance with applicable federal, state and local laws. This provision may not be interpreted to prevent the separation of an employee because of lack of funds or curtailment of work.

The Mayor or Department Head may, for just cause, discipline any City employee. Such disciplinary action may include demotion, suspension and / or dismissal. Unless otherwise provided in this Section, no such punitive suspension shall not exceed thirty (30) calendar days. The Department Head shall consult with the Chief Human Resources Officer or designee when disciplinary actions such as demotions, suspensions or dismissals may be warranted. Any demotion, suspension or dismissal of a City employee shall be reported to the City Council. No employee in the classified service, excluding probationary employees, may be demoted involuntarily, suspended, or dismissed without having the opportunity to have a hearing before their Department Head or designee in which such employee shall be advised of the charges of misconduct and in which the employee shall be afforded an opportunity to be heard in response to such charges. The Chief Human Resources Officer or designee shall have the opportunity to be present at all Disciplinary Hearings.

A City employee who is demoted, suspended or dismissed shall be furnished with written charges within three (3) business days from such disciplinary action that specifically states the offenses with which such employee is charged. The statement of written charges shall be signed by the Department Head or designee, except that such charges as to the departments of fire and police must be signed by the Department Head. A copy of the written statement shall be placed in the employee's official personnel file.

19.6 **Pre-Disciplinary (Loudermill) Meetings**

The City may, for just cause, discipline any City employee. Such disciplinary action may include suspension, demotion and/or dismissal. No employee, excluding Appointed and probationary employees, may be involuntarily demoted, suspended, or dismissed without having the opportunity to have a pre-Disciplinary (Loudermill) meeting with their Department Head or designee.

A pre-Disciplinary (Loudermill) meeting is only necessary when the level of discipline could potentially reach suspension, demotion, or termination.

A pre-Disciplinary (Loudermill) meeting affords an employee who faces disciplinary action notice of the hearing, the charges against them, and an opportunity to be heard in response to such charges. The meeting will be conducted by the Department Head or designee, with a representative from Human Resources attending. All pre-Disciplinary (Loudermill) meetings will be recorded by the City. The employee has the right to be accompanied by an attorney or a representative of their choosing.

The Department Head or designee shall provide written notice of the pre-Disciplinary (Loudermill) meeting to the employee by hand delivery no less than three (3) business days before the hearing, or if delivered by certified mail, mailed no less than five (5) business days before the hearing, with a return receipt requested. This written notice shall include the following:

1. The nature of the alleged policy violation(s) including a copy of any final investigative report or results from a fact finding meeting;

2. The discipline to which the employee may be subjected; and

3. Notification that the pre-Disciplinary (Loudermill) meeting provides the employee's sole opportunity to present evidence, including any witnesses on their behalf, and the employee's right to have a representative or an attorney present at the pre-Disciplinary (Loudermill) meeting.

The written notice will also be provided to Human Resources and the Department's attorney within the Office of the City Attorney no less than three (3) business days before the meeting. The Chief Human Resources Officer or designee shall have the opportunity to be present at all Loudermill meetings.

The employee must notify Human Resources of all meeting attendees who may attend on their behalf no less than 24 hours before the meeting. If an employee is bringing representation (Union representative, or an attorney), the employee shall identify who the representative is in the 24-hour notice. Should the employee elect to bring an attorney as a representative, the City shall have an attorney present. A 24-hour notice shall be sent to the employee and the employee's representative if the City will have an attorney present in the pre-Disciplinary (Loudermill) meeting.

In lieu of attending the pre-Disciplinary meeting, employees may submit a written statement. Written statements must be received by the Department Head or designee prior to the scheduled meeting time. All documents considered during the pre-Disciplinary (Loudermill) meeting will become part of the record.

The employee will have an opportunity to present their evidence, including witnesses, if any, and/or an explanation as to why they believe disciplinary action should not be taken. The Department Head or designee shall have the opportunity to question any witness attending the meeting, including the employee. The pre-Disciplinary (Loudermill) meeting is an opportunity for the employee to give information to the Department Head prior to potential discipline which might involve suspension, demotion, or termination. The pre-Disciplinary (Loudermill) is not an evidentiary hearing; it is not an opportunity for the employee or their witness(es) or Counsel to cross-examine or compel evidence from the City or its Department Heads.

Following the conclusion of the meeting, the Department Head or designee shall determine the appropriate discipline, if any, and notify the employee of the decision in writing. The Department Head or designee will have up to five (5) business days after the meeting to notify the employee of the decision.

19.7 **Collaborative Mediation**

If an employee decides to appeal the outcome of a disciplinary hearing resulting in a demotion, suspension or termination the employee is encouraged to submit a Request for Collaborative Mediation within five (5) business days of receiving the disciplinary decision in writing from the Department Head. This request must be made in writing to the Employee Relations Coordinator. This process will be an attempt to resolve the employment dispute to the satisfaction of both the employee and Department prior to pursuing a post-disciplinary appeal. The Collaborative Mediation will be facilitated by a

Tennessee Supreme Court Rule 31 trained Mediator selected from a list maintained by the Human Resources Department.

19.8 **Post-Disciplinary Appeals**

Administrative Regulations for Conducting Employee Disciplinary Hearings:

IMPOSITION OF DISCIPLINE PROCEDURE

The Chief Human Resources Officer, Department Head, or their designee (the "Executive") shall provide a pre-disciplinary hearing prior to a dismissal, demotion, or suspension of an employee for cause. When the Executive concludes that such discipline is warranted, the employee shall be notified in writing that demotion, termination, or suspension is being imposed. The letter shall advise the employee of their right, when applicable, to appeal the dismissal by filing a Notice of Appeal for a hearing with the Clerk of the City Council (the "Clerk"). The letter shall include the Notice of Appeal form and a copy of Resolution 29356. The employee must acknowledge in writing receipt of the Notice of Appeal and a copy of Resolution 29356.

COLLABORATIVE MEDIATION

The option for Collaborative Mediation should be filed within five (5) business days of the Executive's decision and prior to filing of a Notice of Appeal.

NOTICE OF APPEAL FOR HEARING AND SCHEDULING

An employee appealing from a dismissal, demotion, or suspension shall file a Notice of Appeal for a hearing with the City Council Clerk within fifteen (15) days following the action taken against the employee. The Executive's decision letter shall be attached to the Notice of Appeal. In the event that the employee requests a hearing, the Clerk shall notify the Tennessee Secretary of State's Administrative Procedures Division (the "APD") and request assignment of an Administrative Law Judge (as the "ALJ") to conduct a hearing on the employee's Notice of Appeal for a hearing.

If the APD is not able to appoint an ALJ or if there is a conflict of interest, then the Chair of the City Council (as the "Chair") shall appoint an ALJ, who shall be a Tennessee licensed attorney, to conduct a hearing on the employee's Notice of Appeal for a hearing. A list of attorneys willing to serve in this function will be maintained by the Clerk and the Chair shall designate an attorney from the list. In the absence of or the inability of the Chair to act, the City Council Vice-Chair shall appoint an ALJ to conduct the personnel hearing.

The ALJ to whom a case is assigned may convene the parties for a scheduling conference within fifteen (15) days or as soon as practical and shall set a hearing date within seventy-five (75) days of the date the employee's written request for a hearing is filed with the Clerk unless the employee and the City agree otherwise or for good cause shown. The hearing date may be reset by agreement of the parties or for cause. The ALJ assigned to conduct a personnel hearing shall provide the Clerk with the hearing date. The Clerk shall issue notice of the hearing date to the employee, Executive, ALJ and all other interested parties. The Clerk shall make arrangements for a suitable hearing location.

Should the Executive or employee fail to appear at and participate in a scheduled hearing, the ALJ may in its discretion take such action as is warranted by the circumstances, including dismissal of the appeal, reversal of the disciplinary action, or to adjourn the proceedings to a future date.

# City of Chattanooga Employee Information Guide

| Policy No. 20.0 | Return to Work/Fitness for Duty | Page 1 of 4 |
|---|---|---|
| **Policy Sections:**<br>20.1 Return to Work<br>20.2 Fitness for Duty<br>20.2A Fitness for Duty Evaluation and Results<br>20.3 Light Duty<br>20.3A Light Duty Duration | | Effective:<br>03/31/2026<br>Supersedes: |

## 20.1 Return to Work

Any employee returning to work from an extended leave absence of more than seven (7) business days as a result of a serious injury or illness, extended absence, or from any other health-related circumstance that may call to question their ability to perform the essential functions of the job in a safe and effective manner, must provide a medical release to return to work consistent with the requirements of medical leave of absence.

A Medical Release must be received before the employee will be permitted to return to regular duty.

Employees who are unable to return to their previous position or classification as a result of serious injury or illness may be returned to City employment or reassigned in a different classification following the reasonable accommodation process. They may only be returned or reassigned to a different classification where they meet the minimum requirements of the position and may only be returned or reassigned to positions of equal or lower salary than what was previously earned. Promotions to higher-level or higher-salaried positions are not allowed under the Return to Work policy. Employees are eligible to submit applications and compete for positions that are higher-level or higher salary when they meet the posted minimum qualifications.

## 20.2 Fitness for Duty

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

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

In collaboration with the Chief Human Resources Officer, Risk Management and Department Heads will work as a team to ensure fairness and consistency.

Employees are expected to manage their health in such a way that they can safely and effectively perform their essential job functions and to discuss with their supervisor any circumstances that may impact their ability to do so. The City may require professional evaluation of an employee's physical or mental capabilities to determine their ability to perform essential job functions. Such evaluations are conducted by an independent, third-party licensed health professional and are undertaken only after careful review by Human Resources and/or Risk Management. To the extent possible, the City will protect the confidentiality of the evaluation and results.

Human Resources and/or Risk Management will:

- Review the circumstances that led to the referral for an evaluation;
- Determine whether or not a fitness-for-duty evaluation is necessary;
- Refer the employee for coordination of exam;
- Notify the employee in writing if an evaluation is deemed necessary; and
- Review results and determine what, if any, action is appropriate.

If the evaluation by a health care professional concludes that the employee is not able to perform the essential functions of their position, the City's Reasonable Accommodation Policy will apply.

This evaluation process is for only those situations where reliable observations indicate that the employee may not be physically or mentally able to perform the essential functions of their position due to a physical or mental condition. It is not intended to be a substitute for sick or medical leave requests, Injury on Duty claims, allegations of violence in the workplace, situations where there is an immediate threat of harm or for performance management or disciplinary processes. Supervisors should continue to address performance problems through the implementation of corrective or disciplinary action as appropriate.

All costs of the health care services performed by the health care professional as part of the evaluation will be paid by the City.

Failure on the employee's part to comply with a scheduled fitness-for-duty evaluation may constitute insubordination and be cause for disciplinary action, up to and including termination.

### 20.2A **Fitness for Duty Evaluation and Results**

The fitness-for-duty evaluation will not be conducted for purposes of diagnosis or treatment, but rather for the purpose of determining an employee's ability to perform the essential functions of the job. The employee will be required to provide truthful and accurate information regarding the maximum requirements of their position for evaluation by the health care professional. Human Resources and/or Risk Management will ask the

health care professional to release only that information as permitted under this policy or otherwise permitted or required by law. The health care professional will be requested to complete a written report containing only the following information:

1. A conclusion regarding the determination of fitness for duty;
2. A description of the nature and extent of any functional limitations on the employee's ability to perform their job; and
3. A description of the expected duration of each such functional limitation.

Insofar as feasible, the results of the evaluation will be treated as confidential and will be shared only with those who need to know the results for legitimate business purposes. However, where the employee has placed as issue their medical history, mental or physical condition, or treatment, relevant information may be used and disclosed by the City in connection with such proceedings.

Human Resources and/or Risk Management will make a decision regarding the employee's status, including but not limited to, the employee's return to work or the removal of the employee from any duties pending treatment and re-evaluation, depending upon the results of the evaluation and the recommendation of the health care professional. Any decision that results in an inability to accommodate an employee's medical condition will include, at a minimum, consultation with the City Attorney's office.

20.3 **Light Duty**

If the employee has been issued restrictions by a personal physician, Human Resources and/or Risk Management will evaluate the restrictions to determine if they can accommodate the restrictions and place the employee in a position that meets the restrictions recommended by their personal physician.

Light duty assignments under this policy are temporary job assignments for employees injured or otherwise incapacitated. Light duty assignments are temporary assignments only and are not available to employees on a permanent basis under any circumstances. The availability of light duty assignments depends on the employee's restrictions and the business needs of the City's departments. The existence of this policy in no way guarantees that light duty will be available at any given time, or for any particular employee who requests it and an assignment of light duty is not a right of employment.

The Department Head or designee will work in conjunction with Human Resources and/or Risk Management to determine if a light duty assignment is available, and whether the employee is eligible for work assignment. The decision regarding a light duty assignment is not subject to grievance or appeal.

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

Light duty assignments related to Injury on Duty will follow the Injury on Duty policy in this Employee Information Guide.

### 20.3A **Light Duty Duration**

Light duty, as defined in this Policy, is temporary, not indefinite. Light duty will not extend beyond six (6) months except when provided by law. If the employee has not sufficiently recovered to return to their pre-injury/illness position within six (6) months, the City will follow the accommodation process as referenced in Policy 3 of this Employee Information Guide. The review will take place to assess the possibility of the employee returning to regular duty within a reasonable period of time.

If there is a high expectation that the employee will be able to return to unrestricted job duties, light duty may be extended beyond six (6) months as recommended by Human Resources and/or Risk Management, and approved by the Chief Human Resources Officer, as part of a reasonable accommodation.