

# City of Harriman

## Personnel Policies

**DEVELOPED WITH THE ASSISTANCE OF**

**University of Tennessee**

**Municipal Technical Advisory Service**

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## SECTION I – GENERAL PROVISIONS

### A. PURPOSE AND INTRODUCTION

The primary purpose of these policies is to implement a system of personnel administration, which provides consistent, impartial, and effective policies and procedures for the employees of the City of Harriman. These policies shall apply to all employees of the City of Harriman without regard to race, color, religion, gender or gender identity, age, national origin, disability, military status, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities, exercising a statutory constitutional right or any right under clear public policy, political affiliation, genetic information or any other basis protected by law.

The manual is not part of a contract, and no employee has any contractual/ property rights to the matters set forth herein other than those designated by the City Charter. The city reserves the right to change any and all such policies, practices, and procedures in whole or part at any time, with or without notice to employees.

These personnel regulations shall be made available to all employees. Employees will receive a copy of the regulations upon employment. Any employee who desires to review the departmental copy or request an electronic copy may contact the City Clerk.

#### **Non-Discrimination**

Title VI requires that no person shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. The City of Harriman further complies with all local, state, and federal laws that protect employees from discrimination.

#### **Title VII**

It is the city's policy not to discriminate against any employee or applicant for employment or during the course of employment due to race, color, religion, age, sex, national origin or ancestry, marital status, veteran's status, or ability in accordance with applicable federal, state, and local law. If an employee believes that he or she has been involved in any incident that was discriminatory, he or she should report the incident immediately to management.

### B. COVERAGE

These rules and regulations will cover all employees in the city service unless specifically excluded by this document, section, the city charter, and/or the ordinances of the city. Temporary, seasonal, and part-time employees are subject to all regulations but may not be eligible for benefits such as: health coverage, leave accrual, holiday pay, or retirement benefits.

All city offices and positions are divided into the classified service and the exempt service. The classified service includes all regular full-time and regular part-time positions in the city's service unless specifically placed in the exempt service. All offices and positions of the city placed in the exempt service are:

1. all elected officials;
2. members of appointed boards and commissions;
3. consultants, advisers, and legal counsel rendering temporary professional service;
4. independent contractors;
5. volunteer personnel appointed without compensation;
6. employees of Harriman Utilities Board

General city policies and state or federal laws such as workplace harassment and violence and ethics are intended to cover all City of Harriman workers regardless of exemption.

## **C. ADMINISTRATION**

These rules will be administered by the appropriate administrative authority, generally the City Manager who falls under the direction of the City Council and in conformity with regulations establishing a personnel system. Department heads and supervisors are responsible for the administration and enforcement of the personnel regulations for employees in their respective areas.

Amendments to the rules and regulations shall be made in accordance with the procedure herein. Nothing in the personnel rules and regulations document shall be deemed to give employees any more property rights in their jobs than may already be given by the city charter. The city reserves the right to alter or change any or all of these rules with or without prior notice to employees.

Human Resources/personnel responsibility and functions regarding the administration of the personnel regulations shall include, but not be limited to, the development and presentation of personnel regulations and recommended amendments, updates, revisions, and additions. The Human Resources/personnel staff member will also provide technical assistance to department heads and supervisors on the interpretation and application of the personnel regulations.

## **SECTION II – CLASSIFICATION PLAN**

### **A. PURPOSE**

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

### **B. COMPOSITION OF THE CLASSIFICATION PLAN**

The classification plan may consist of:

1. a grouping of classes of positions that are approximately equal in difficulty and responsibility that call for the same general qualifications and that can be equitably compensated within the same range of pay under similar working conditions;
2. class titles descriptive of the work of the class;
3. written specifications for each class of positions; and
4. physical standards for performance of the duties of the position

### **C. USE OF CLASS TITLES**

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

### **D. USE OF JOB DESCRIPTIONS**

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

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

### **E. USE OF THE CLASSIFICATION PLAN**

The classification plan may be used:

1. as a guide in recruiting and examining candidates for employment;
2. in determining lines of promotion and developing employee training programs;
3. in determining salaries to be paid for various types of work;
4. in determining personal service items in departmental budgets, and/or
5. in providing uniform job terminology understandable by all city officers and employees and by the general public

### **F. ADMINISTRATION OF THE CLASSIFICATION PLAN**

The City Manager or designee is charged with maintaining the classification plan of the city so that it will reflect the duties performed by each employee in the service of the city and the class to which each position is allocated. It is the duty of the City Manager or designee to examine the nature of the position classes, recommend to the City Council such changes in the classification plan as are deemed necessary by changes in the duties and

responsibilities of existing positions, and periodically review the entire classification plan and recommend to the City Council appropriate changes in allocations or in the classification plan itself.

#### **G. ALLOCATION OF POSITIONS**

Whenever a new position is established or the duties of an old position change, department heads will submit in writing a comprehensive job description listing in detail the duties of such a position. The City Manager and applicable personnel staff will investigate the actual or suggested duties and recommend to the City Council the appropriate class allocation or the establishment of a new class. The City Council will then approve or change such recommendations.

#### **H. REQUEST FOR RECLASSIFICATION**

A department head may submit a pay reclassification request to the City Manager if he/she considers a position in his/her department to be improperly classified. If the duties of a position have substantially changed or a new position is established, a new job description may be required. If the investigation indicates a reclassification is appropriate, the City Manager will recommend to the City Council the appropriate reclassification, and the City Council will then approve or change such recommendations.



## **SECTION III – COMPENSATION**

### **A. PURPOSE**

It shall be the policy of the City of Harriman to strictly adhere to the provisions of the United States Department of Labor's Fair Labor Standards Act as applied to Tennessee municipalities. The city will maintain a compensation plan that assigns pay ranges to each employment position identified in the job classification plan for the city. Salaries of individual employees will be set within those ranges and approved by the City Council within budgeted fiscal resources. Exceptions must be approved by the City Council.

The compensation plan is intended to provide fair compensation for all positions contained in the job classification plan. The compensation plan is to be used in consideration of pay ranges for other classes, general pay rates for similar employment in private establishments and other public jurisdictions in the area, cost of living data, the financial condition of the city, and other factors.

### **B. COMPOSITION OF THE PLAN**

New employees may be hired into a position upon the approval of the City Manager, below the specified range for that particular employment position when the employee does not meet the minimum specified requirements for the position at the date of hire but could meet those requirements for the position with specific training and/or certificates. No employee may remain in trainee status for more than twelve months without approval from the City Council.

New hire salaries will be 5% less than the starting rate but no lower than the Federal Minimum Wage. After three months, the new hires will get a 2.5% raise and then after six months, they will get a remainder to bring them up to full starting pay. New employees that start at the Federal Minimum wage will receive a 2.5% increase after the first three months and in three additional months the employee will receive an additional 2.5% not to exceed 5% of the Federal Minimum Wage. However; discretion would be given to new hires that have an extensive work history and reconsideration of this policy could be given with approval from the City Manager if they have a long history of work experience.

### **C. MAINTENANCE OF THE PAY PLAN**

The City Manager or designee may at the direction of the City Council make comparative studies of all factors affecting the level of salary ranges and will recommend to the City Council changes in the salary ranges as appear to be in order. Adjustments may be made by increasing or decreasing the salary ranges as provided in the basic salary schedule. The pay rate for each employee will be determined by the above composition of the plan.

### **D. USE OF SALARY RANGES**

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

The minimum rate established for a class is the normal hiring rate except in those cases where unusual circumstances (such as inability to fill the position at the hiring rate or exceptional qualifications of an applicant) appear to warrant employing an individual at a higher rate in the pay range. Any department head/supervisor desiring to appoint an applicant to start at a salary range above the minimum must submit a written justification to the City Manager for approval. Such appointments will be made only in exceptional cases and approved by the board of the City Council if additional budgeted funds are needed.

### **E. PAY FOR PART-TIME WORK**

When an employment decision is for a regular part-time position, the individual will be paid the equivalent hourly rate for the time actually worked. The rate of pay for part-time work shall be based upon the applicable market and

the compensation plan rates for the job being performed by the individual taking into account the city's budgetary needs. Part-time seasonal, and volunteer employees are not eligible for benefits unless specified by local, state, or federal law.

#### **F. HOURLY RATES**

Employees paid on an hourly rate basis are paid for all time actually worked. The City Council may set by ordinance or resolution all salaries paid by the city. Due consideration will be given to duties performed, responsibilities, technical knowledge and skills required to perform the work satisfactorily, the labor market, and the availability of people having the desired qualifications.

#### **G. MINIMUM WAGES**

In accordance with the FLSA, no employee, whether full-time, part-time, or probationary, will be paid less than the federal minimum wage unless they are expressly exempt from the minimum wage requirement by FLSA regulations.

#### **H. OVERTIME PAY**

Regular employees, part-time employees, and temporary employees will be paid according to the prevailing salary schedule. Overtime work will be compensated according to the FLSA provisions at a rate of 1 ½ times the employee's regular rate. Generally, overtime work must be authorized by the department head.

Work periods for the purpose of calculating overtime pay may be different for public safety positions but are still processed in accordance with FLSA.

#### **I. CALL-BACK/RETURN TO DUTY PAY**

An employee who is called back to work on an emergency basis will be compensated at the regular overtime rate of one and one-half (1.5) times their regular rate of pay for a minimum of (2) hours as approved by his/her supervisor.

#### **J. ON- CALL TIME**

On-call service is necessary for the proper maintenance and functioning of city services. It is the duty and responsibility of each on-call employee to be available by electronic communication at all times. Employees must be able to respond to an emergency call within 30 minutes after receiving notice. The department head or lead person will be responsible for determining which employees are designated for on-call.

An employee on-call who fails to respond to an emergency call within 30 minutes will be subject to disciplinary action up to and including discharge.

#### **K. TRAINEE STATUS**

New employees may be hired into a position upon the approval of the City Manager below the specified range for that particular employment position when the employee does not meet the minimum specified requirements for the position at date of hire but could meet those requirements for the position with specific training and or certificates. No employee may remain in trainee status for more than twelve months without approval from the City Manager.

#### **L. PAY RATE FOR CHANGES IN STATUS**

The following pay policies shall be effective in relation to promotions, demotions, transfers, and reclassifications. This list is not all inclusive. Other possibilities may exist that have not been provided. This provision will also apply to uncertified policy officer candidates who upon completion of the Tennessee Law Enforcement Training Academy will have a change in status from uncertified to certified.

1. **Promotion:** When an employee is promoted to a position in a higher salary grade, the rate of pay will be at least the minimum rate of the higher position range unless the employee is promoted under a “trainee status”.
2. **Demotion:** In case of voluntary or involuntary demotion, the employee’s rate of pay shall be reduced to a lower rate comparable to other employees performing similar job duties as recommended by the department head and approved by the City Manager. Demotions shall result in a reduction in pay when a result of a disciplinary action.
3. **Transfer:** When an employee in a position of one class is transferred to the position of another class of the same or equal level he/she may or may not continue to be paid at the same rate, depending upon the job responsibilities and qualifications, but shall have no effect on his/her anniversary date in regard to benefits.
4. **Reclassification:** The salary of an employee whose position is reclassified and allocated to another class in the same or higher level shall be determined by the rules for transfer and promotion. The salary of an employee whose position is reclassified and allocated to another class at a lower level may not be changed.

### **M. OUT-OF-RANK PAY**

All employees who are assigned temporary work in a higher classification may receive additional compensation for any period in excess of two weeks retroactive to the date of the appointment. No temporary appointment can be made for a period longer than six months without approval of the City Council. Not all changes of assignments will result in a pay change. Out-of-rank pay is at the discretion of the city and available funding. department heads and supervisors are not eligible for additional compensation when performing tasks of subordinates in their department.

### **N. PAYCHECKS**

All employees of the City of Harriman will be paid on a bi-weekly basis. If you have questions about your work time, salary, or paycheck, call it to the attention of the department head within the pay period in question or immediately thereafter.

**Final Pay** – Whenever possible, final pay may be issued to the employee at the time of dismissal or resignation. The city is required by law to issue final pay by the next regular payday, or no later than 21 days following the date of dismissal or resignation. In unusual circumstances, a department head may make arrangements for earlier payment.

### **O. PAYROLL DEDUCTIONS**

By law, the city is required to deduct, where applicable, federal withholding taxes, Social Security taxes, and garnishments from an employee’s pay. In addition, the following deductions will be made when authorized by an employee (this list is not all inclusive):

1. **Federal Income Tax** – Federal taxes are withheld from employees’ paychecks based on the number of dependents claimed by each individual. Employees are required to file with the city a copy of the W-4 form. In the event of changes in the employee’s exemption status, a revised W-4 form must be filed before payroll deduction adjustments will be made.
2. **Social Security & Medicare** – Social Security and Medicare payments and deductions will be made according to federal law. The payroll clerk shall keep such records and make such reports as may be required by applicable state and federal laws or regulations.
3. **Others** – Other city authorized deductions will be made from an employee’s pay with either the employee’s signed consent or pursuant to a valid court order.

- a. health/hospitalization insurance (medical service premiums),
- b. life insurance,
- c. dental insurance,
- d. vision insurance,
- e. deferred compensation payments,
- f. pension plan,
- g. supplemental insurance approved by the city,
- h. child support or other garnishments
- i. charity contributions approved by the city, and
- j. cost of uniforms, safety footwear, and other applicable equipment during employment or upon failure to return such upon separation as allowed by state law and the FLSA.

**P. LONGEVITY PAY**

Longevity pay is not available for new hires or re-hires. Employees hired before October 26, 2011, are eligible for longevity pay under the below guidelines. Payment of longevity pay is dependent upon budget availability and approval from the City Council.

Longevity pay may be paid after two years of full-time service at the rate of \$100.00 for each year of eligible service. The maximum payout on longevity is ten years of service or \$1,000.00 per year. Longevity payments are made through the issuance of a separate check and are distributed the month following each employee's longevity anniversary date. The dollar value of longevity pay is considered as a covered salary for calculating retirement and taxes.

**Q. CHRISTMAS BONUS**

If budget allows, all full-time and part-time employees shall be paid a Christmas bonus based on the following schedule:

**Length of Continuous Service Bonus Amount**

6 months- 2 years \$ 50.00

2 years to 5 years \$ 75.00

5 years + \$ 100.00

Length of service shall be determined as of December 1 of the calendar year in which the bonus is paid. The city will use your anniversary date and total service as of December 1.

This amount is subject to change based on budget status and the needs of the city.

**R. RETIREMENT BONUS**

All full-time employees who are at least 55 years of age and who have completed a minimum of five years of full-time service prior to retirement shall be paid a bonus in accordance with the following schedule:

**Length of Service**

5 Years \$ 500.00

6 Years \$ 600.00

7 Years \$ 700.00

8 Years \$ 800.00

9 Years \$ 900.00

10 Years \$ 1,000.00

The maximum retirement bonus shall be \$1,000.00 and no employee shall be eligible who has less than five (5) years of continuous full-time service. The City Manager or designee will determine eligibility based on anniversary date. This amount is subject to change based on budget status and the needs of the city.

## SECTION IV – EMPLOYMENT

### A. EQUAL EMPLOYMENT OPPORTUNITY

It is the obligation of the City of Harriman to provide equal opportunity employment to all employees and applicants for employment. No person will be discriminated against in the employment process because of race, color, religion, sex, age, national origin, disability, military status, or any other protected class. This includes the right of applicants/employees to communicate with elected officials, free speech, refusing to participate in or remain silent about illegal activities, and exercising a statutory constitutional right or any right under clear public policy, political affiliation, and genetic information or any other basis protected by law. The City of Harriman will provide reasonable accommodation to individuals unless the accommodation would pose an “undue hardship” on the city. The policy applies to all terms, conditions, and privileges of employment and all policies of the city, including hiring, placement, training, employee development, promotion, transfer, compensation, benefits, layoffs, terminations, and retirement.

### B. APPLICATIONS

Applications are only accepted when vacancies exist and will only be considered for the specific position applied. The City of Harriman will keep applications on file after a position closes only to the extent required by records retention laws. A list of individual applicants who have successfully qualified as candidates for a position may be maintained by the city for a period of no longer than six (6) months.

### C. JOB ANNOUNCEMENTS

Department heads who need to fill a job opening should contact the City Manager in order to begin the recruitment process. The City Manager or designee will prepare and publicize job announcements in order to bring notice of vacancies to as many qualified persons as possible.

### D. RECRUITMENT BY EXAMINATION

All appointments in the city service will be made according to merit and fitness and may be subject to competitive examination. All such examinations will fairly and impartially test those matters relevant to the capacity and fitness of the applicant to efficiently discharge the duties of the position to be filled.

### E. TYPES OF EXAMINATIONS

The examinations held to establish eligibility and fitness for any class may consist of one or more of the following types of examinations as determined by the City Manager. The city will make reasonable accommodations in the examination process to disabled applicants requesting such accommodations.

1. **Written Test** – this test, when required, will include a written demonstration designed to show the applicant’s familiarity with the knowledge involved in the class of positions to which he/she is seeking employment.
2. **Oral Test** – This test, when required, will include a personal interview where the ability to deal with others, to meet the public, and/or other personal qualifications are to be evaluated. An oral interview may also be used in examinations where a written test is unnecessary or impractical or as a reasonable accommodation to someone unable to take a written test due to a disability.
3. **Performance Test** – This test, when required, will involve performance tests as would aid in determining the ability and manual skills of applicants to perform the work involved. The performance test may be given a weight in the examination process or may be used to exclude from further consideration applicants who:
  - a. cannot perform the essential functions of a specific position due to a disability that cannot reasonably be accommodated;

- b. pose a direct threat to themselves or others;
  - c. are unable to perform the essential functions of a specific position due to a temporary condition or disability not protected by the ADA
4. **Physical Agility Test** – When required, this consists of job-related tests of bodily conditioning, muscular strength, agility, and physical fitness of job applicants for a specific position. This test may be given a weight in the examination process or may be used to exclude from further consideration applicants who do not meet the minimum required standards.
5. **Mental Test** – When required, this will include any test to determine mental alertness, general capacity of the applicant to adjust his/her thinking to new problems, or to ascertain special character traits and attitudes.
6. **Pre-employment Drug Test** – Pre-employment drug testing will be conducted on all positions. Positive results on the drug test can result in an applicant being denied employment.

## **F. NOTIFICATION AND INSPECTION OF EXAMINATION RESULTS**

Each person who takes an examination will be notified by first-class mail or other appropriate means of his/her standing on the eligibility list (if one is maintained) or of his/her passing or failing. Each person in an examination may inspect his/her rating and the examination papers within thirty (30) days of notification of the results. These inspections will be permitted only during regular business hours and at the office of the City Manager.

## **G. MEDICAL EXAMINATIONS & FIT FOR DUTY PHYSICALS**

### **Pre-employment**

Following a conditional offer of employment, every prospective employee, when required, may be examined by a licensed medical practitioner designated by the city. This exam will determine whether prospective employees can perform the essential functions of the position offered. The cost of this medical examination will be borne by the city.

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 only if they:

- 1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated;
- 2. pose a direct threat to themselves and/or others; or
- 3. are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA

### **Post-hire**

All employees of the city may, during their employment, be required by their department head, with the approval of the City Manager to undergo an initial and/or periodic examination to determine their physical and mental fitness to continue to perform the work of their positions. These examinations shall be at no expense to the employee. Determination of physical or mental fitness will be made by a physician designated by the City of Harriman.

A medical examination may be required when an employee is exposed to toxic or unhealthy conditions, requests an accommodation for a disability or has a questionable ability to perform current job duties or the duties of the job for which the employee is being considered.

When a city employee is reported by the examining physician to be physically or mentally unfit to perform work in the position for which he/she is employed, the employee may, within 3 business days from the date of his/her notification of such determination, indicate in writing to the City Manager his/her intention to submit the question of his/her physical or mental unfitness to a physician of his/her own choice.

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

Employees determined to be physically or mentally unfit to continue in their positions may be demoted according to these rules, or they may be separated from the city service only after it has been determined that they:

1. cannot perform the essential functions due to a disability that cannot reasonably be accommodated;
2. pose a direct threat to themselves and/or others;
3. are unable to perform the essential functions due to a temporary condition or disability not protected by the ADA

Employees not covered by the Family Medical Leave Act (FMLA) may also be required to have a medical examination on other occasions when the examination is job related and consistent with business necessity. For example, a medical examination may be required when an employee may be exposed by certain work conditions, requests an accommodation for a disability, or has a questionable ability to perform the job for which the employee is being considered.

## **H. MINIMUM AGE**

The FLSA requires that employees of state and cities be at least 16 years old for most non-farm jobs and at least 18 years old for non-farm jobs declared hazardous by the Secretary of Labor. Minors 14 and 15 years old may work outside school hours under certain conditions.

## **I. TYPES OF EMPLOYEES**

Note: Employees such as Fire and Police may have different work periods and overtime thresholds associated with the type of employee and number of hours worked in a work period. Employees should consult with their Department Head to determine the overtime policy and work periods.

1. **Regular Full-time Employee** – A regular full-time employee is an employee who is regularly scheduled to work a minimum of 40 hours per week, may be paid a salary and is subject to all conditions of employment, and receives all benefits offered by the city unless specifically excluded by the city charter, code, or ordinance.
2. **Regular Part-time Employee** – A regular part-time employee is an employee who works part-time hours on a regular basis and works fewer than thirty (30) hours per week. Regular part-time employees are not eligible for city benefits unless specified by law.
3. **Temporary Full-time Employee** – A temporary full-time employee is an employee who works six (6) months or fewer per calendar year and who is paid on a per day or per hour basis. Following completion of six (6) consecutive months of employment, if the employee is not hired in a regular full-time capacity, employment may terminate. A temporary employee may not be subject to all conditions of employment, but shall be fully capable of performing the assigned duties and will receive no benefits except what is required by law. Individuals who are classified as temporary employees and are hired to fill a regular full time or part-time position shall begin to accrue benefits on the effective date of regular appointment.
4. **Temporary Part-time Employee** – a temporary regular part time employee is an employee who works fewer than thirty (30) hours per week. Temporary employees may not work more than six (6) months per year.



5. **Police Reserve** – Reserve officers are volunteers appointed by the Police Chief. Reserve officers receive no compensation and no other benefits except coverage under the Special Reserve Police Insurance Coverage Policy, if applicable.
6. **Volunteer Firefighters** – Volunteer firefighters are appointed by the Fire Chief when necessary. Volunteer firefighters are compensated per fire-call with no other benefits except coverage under the Volunteer Firefighters Insurance Coverage Policy, if applicable.
7. **Volunteer Employee** – A volunteer is an individual who works for the city for no compensation.

## **J. NEW HIRES, PROMOTIONS, DEMOTIONS, AND TRANSFERS**

All vacancies in the city service will be filled by new hires, re-employments, promotions, appointment, conditional hire, transfer, or demotion as determined by the provisions in the city charter

Whenever a department head wishes to fill a vacancy, a request must be submitted to the City Manager on the forms prescribed.

1. **New Hires** – The initial employment to a position with the city falls into four categories. They are:
  - a. **Original Hires** – when a non-employee passes all of the tests of employability and is offered conditional employment.
  - b. **Conditional/Temporary Hires** – when the city is unable to fill a vacancy because of insufficient number of applicants or lack of qualified applicants, the City Manager may authorize the department head to fill the vacancy by a provisional appointment. The tenure of the conditional hire will be limited to a period not to exceed 6 months in any 12-month period.
  - c. **Student Hires** – Students majoring in a field of value to the city from a qualified, cooperating educational institution may be employed on an “internship” basis for a period not to exceed 12 consecutive months. The appointment must be approved by the City Manager.
2. **Promotions** – A promotion is assigning an employee from one position to another that has a higher maximum pay rate, rank, and responsibility. Promotions in every case must involve a definite increase in duties and responsibilities and shall not be made merely for manipulation of wages or salary.

When an employee in one classification is promoted to a position in another classification and the employee’s current pay rate is less than the minimum rate for the new position, the employee’s salary shall be raised to that minimum rate. When the employee’s salary falls above the new minimum rate, a percentage increase as determined by the City Manager shall be given.

3. **Transfers** – When an employee desires to transfer from one department to another, it must be agreeable to both department heads involved and/or approved by the City Manager. Transferring an employee from one position to another without significant change in the responsibility level may be effective:
  - a. when the employee meets the qualification requirements for the new position;
  - b. if it is in the best interest of the city;
  - c. if it meets the personal needs of the employee as consistent with the other requirements of this rule; and/or

- d. as a reasonable accommodation when an employee is unable, due to a disability, to continue to perform the essential functions of the job.

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

4. **Demotions** – A demotion is assigning an employee from one position to another that has a lower maximum pay rate, rank, and responsibility. An employee may be demoted for any of the following reasons:
  - a. because his/her position is being abolished and he/she would otherwise be laid off;
  - b. because his/her position is being reclassified to a higher grade, and the employee lacks the necessary skills to successfully perform the job;
  - c. because there is a lack of work;
  - d. because there is a lack of funds;
  - e. because another employee, returning from authorized leave granted in accordance with the rules on leave, will occupy the position to which the employee is currently assigned;
  - f. because the employee does not possess the necessary qualifications to render satisfactory service to the position he/she holds;
  - g. because the employee voluntarily requests such a demotion, and it is available;
  - h. as a reasonable accommodation when an employee, due to a disability, becomes unable to perform the essential functions of the job; and/or
  - i. as a form of disciplinary action.

When an employee in one classification is demoted to a position in a lower classification and the employee pay rate is higher than the minimum rate for the new position, the employee's salary shall be reduced to the classification rate.

#### **K. CITIZENSHIP AND IMMIGRATION STATUS VERIFICATION**

The city will not discriminate on the basis of a person's national origin or citizenship status with regard to recruitment, hiring, or discharge. However, the city will not knowingly employ any person who is or becomes an unauthorized immigrant. In compliance with the Immigration Reform and Control Act, all employees hired after November 6, 1986, regardless of national origin, ancestry, or citizenship, must provide suitable documentation to verify identity and employability. The documentation must be provided within three days of employment, or the individual will be subject to separation.

#### **L. PERFORMANCE APPRAISAL / EVALUATION**

The City of Harriman recognizes the value of providing employees with regular feedback. The performance of all employees may be appraised and reviewed at least annually by their immediate supervisor. If applicable, written appraisals will be discussed with the employees so they will know how they are progressing and what they may do to improve their performance.

As important as these written performance/appraisals are, they are not meant as substitutes for ongoing discussions between employees and their supervisors about their performance. Supervisors will document both positive performance and performance that needs to improve throughout the year. These Performance Reports will be used to support annual performance appraisals/evaluations.

## **M. FIRST DAY OF EMPLOYMENT / ORIENTATION**

New employees shall be required to complete or provide the following documents and forms before beginning work:

1. W-4 form;
2. signed acknowledgement form from the employee handbook/personnel manual (if available);
3. Immigration Control and Reform Act Form (I-9);
4. a copy of educational certification, professional license, or certificate required per the job description;
5. emergency telephone numbers;
6. a copy of driver's license (if the position requires driving a city vehicle) or some type of government issued identification;
7. a copy of driver's auto insurance card, if applicable
8. others as required by the city, local, state, or federal law.

In order for new employees to be successful, it is imperative that they understand the overall environment in which they will be operating. Employees who understand the organization's history, scope of operation, economic goals and future prospects will identify more readily with the entire organization. They should develop a sense of belonging more quickly than other employees who are left to search out needed information on their own.

New employees are required to attend a new employee orientation. At this orientation, employees will be provided with relevant documentation which may include:

1. city organization chart and department functions;
2. map of the city;
3. key terms unique to the city;
4. copy of policy handbook and other city pamphlets;
5. benefit handout;
6. copies of performance evaluation forms, dates, and procedures;
7. list of on-the-job training opportunities and career ladders;
8. detailed outline of emergency and accident-prevention procedures;
9. telephone numbers and locations of key personnel and operations; and/or
10. safety requirements and accident procedures.

## **N. MOONLIGHTING / OUTSIDE EMPLOYMENT**

With the approval of one's department head, "moonlighting" is permissible, provided that there is no conflict of interest or impairment of work performance for the City of Harriman. Before outside employment begins, employees must present a written request describing the work to be performed.

Employees missing work because of sickness, injury, or other matter (i.e., fatigue) that can be attributed to a second job will not receive pay or other normal benefits for time lost from their city job. Approval of a second job may be withdrawn for any of the above reasons.

Police and fire departments may have their own policies on use of uniforms and equipment and when such may be used in the course of outside employment. Police officers that provide security related duties for businesses or associations must provide proprietary security license or contract license information for insurance verification.

## **O. WORKDAY / WORKWEEK**

Pursuant to the FLSA, a workweek is a regular recurring period of 168 hours consisting of seven consecutive 24-hour periods. Generally, five days per week constitute a workweek for regular employment. Police and fire/public safety employee schedules may entail more or fewer days in the workweek. A standard workweek is scheduled between 8 a.m. Monday through 8 a.m. the following Monday.

## **P. ATTENDANCE**

The city provides a variety of forms of leave to cover absence from work. Unless there are emergency factors involved, leave is to be requested at least 24 hours in advance. Punctual and regular attendance is necessary for the city to operate efficiently. Employees unavoidably late or absent from work due to illness or other causes must notify their supervisor within the time frame established by each department and prior to the work shift. Employees must explain the reason for the absence and, if possible, the anticipated time and date they will return to work. Failure to notify one's supervisor of absences may result in disciplinary action. Employees found cheating on their time sheets or excessively tardy will be subject to disciplinary action up to and including termination of employment. In work areas without time clocks, supervisors will sign/attest to employees' prompt reporting to duty. Each city department may establish leave and scheduling procedures that are necessary for its operations, as long as they are not in conflict with city policy.

## **Q. TIME REPORTING**

Employees must record their own time electronically (unless there is no available access, the electronic unit is broken, or there has been pre-approval from the supervisor) starting time, time for lunch break, and quitting time. Supervisor's initials are required on any time sheet when the immediate supervisor must clock in, clock out or write an employee's time when extenuating or emergency circumstances arise.

Employees are not permitted to clock in, or begin work before their normal starting time, or clock out past their normal quitting time unless pre-approved by their immediate supervisor. Employees are expected to adhere to the pre-established time schedule and utilize the electronic timecard accordingly. Supervisor's initials are required on any time worked greater than or less than the pre-established work schedule. The City of Harriman expects its employees to report to work on time and to work the pre-established work hours that are scheduled. The electronic time clocks will document, and record time as worked.

The city will allow a seven (7) minute grace period for starting the scheduled work day. The grace period begins seven minutes before a pre-established work schedule and/or seven minutes after the ending of the pre-established work schedule. Infractions resulting in overtime will be paid only when authorized. Any time recorded past the seven (7) minute grace period will be deducted at fifteen (15) minute increments from the time as electronically recorded.

Employees may not clock in or out for fellow employees. Disciplinary action up to, and including, termination will be imposed on those employees who clock in or out for a fellow employee. Each employee is responsible for the timely and accurate tracking of hours. An employee who fails to clock in or out must have a valid explanation and approval from his or her immediate supervisor or otherwise is subject to disciplinary action. Employees found cheating on their time sheets or excessively tardy will be subject to disciplinary action up to and including termination of employment.

## **R. MEAL PERIOD & BREAKS**

A meal period of either 30 or 60 minutes shall be provided to all full-time employees except in cases of emergency. The meal period shall be deducted from the number of regular hours scheduled for an employee's normal workday. The duration of the meal period shall be determined by the department head with the approval of the City Manager and in accordance with all provisions under the Fair Labor Standards Act. Federal law does not require that employees be given any particular rest breaks or breaks of any particular duration. The FLSA requires that the employer pay for breaks of 20 minutes or less and for all breaks and lunch periods during which the employee must remain at the workstation and/or perform some duties. However, when no services are required of the employee, lunch breaks can be unpaid. Fire and Police may have different meal period schedules.

## **S. NEPOTISM & PERSONAL RELATIONSHIPS**

No member of an immediate family shall be employed under the same line of supervision within the same department. This does not preclude employment of immediate family members under other lines of supervision. Immediate family members include but are not limited to: Mother, Father, Sister, Brother, in laws, step relatives, spouse, and children. 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 and City Manager. 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 of Harriman.

## SECTION V – LEAVE POLICIES

Temporary, seasonal and part-time employees are not eligible for the following leave and benefits.

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

### A. PAID HOLIDAYS

The following days are considered paid holidays for all full-time employees. These days will be taken without loss of vacation credit. Some employees may be required to work on a holiday in order to maintain city operations. The paid holiday schedule is subject to change on an annual basis.

Paid Holiday Schedule
<b>New Year's Day</b> January 1
<b>Dr. Martin Luther King, Jr. Day</b> Third Monday of January
<b>Good Friday</b> Friday preceding Easter Sunday
<b>Memorial Day</b> Last Monday in May
<b>Independence Day</b> July 4
<b>Labor Day</b> First Monday in September
<b>Thanksgiving Day</b> Fourth Thursday in November
<b>Day after Thanksgiving</b> Friday after Thanksgiving
<b>Christmas Eve</b> December 24
<b>Christmas Day</b> December 25
<b>*2 Personal Days (16 hours)</b> With prior approval by supervisor

\* Personal days may NOT be carried over or paid out at time of termination.

### Weekend Holidays

Holidays that fall on Sunday are typically observed the following Monday by those employees working Monday through Friday; holidays that fall on Saturday are observed on Friday by those employees.

### Part-time Employees

Part-time employees eligible for holiday pay who are scheduled to work on a holiday will be paid on a prorated basis.

### Compensation for Holiday Pay

When an employee is required to work on a paid holiday, he/she will be compensated in accordance with the statement below:

Employees shall receive holiday pay in the form of an additional eight (8) hours of bonus pay for each of the above holidays worked.

To receive compensation for a holiday, employees eligible for holiday benefits must be in a pay status (not away on leave without pay or on workers' compensation) on their last regular shift scheduled before a holiday and their first regularly scheduled shift after a holiday. It will be the department head's responsibility to report to payroll the names, hours, and dates of employees who work holidays. This reporting shall be done as soon as possible, but in no case later than three workdays after the holiday.

### **Legal Holidays in Lieu of Vacation Leave**

Legal holidays falling within a vacation period are not to be counted as vacation days. There shall be no pay in lieu of vacation. Vacation/annual leave will not accrue when a regular full-time employee is on "leave without pay" for 15 days during any calendar month. Employees may not borrow against future annual vacation or transfer earned leave to another employee.

## **B. VACATION LEAVE**

Vacation leave is a personal leave benefit granted to full-time employees as part of the city's benefit package. On the beginning day of employment, an employee's city leave accrual balance will be zero.

### **Waiting Period**

Employees who have been continuously employed for a period of one year or longer shall be credited with earned vacation leave in accordance with the schedule below.

### **Approval**

Vacation leave will be granted to eligible employees and approved by supervisors. Employees must give supervisor(s) as much advance notice as possible. All requests for scheduling vacation leave must be submitted for approval to the immediate supervisor at least (24 hours) in advance. Approval of a request for leave must be given by the supervisor. The supervisor will take into consideration the requirements of maintaining adequate service in the department.

### **Temporary / Seasonal Employees**

Temporary / Seasonal employees are not eligible for leave.

### **Workers' Compensation**

Employees on Workers' Compensation will continue to accrue vacation during the period of absence.

### **Termination of Employment**

All eligible employees who voluntarily terminate from employment with the city will be paid for any accrued, unused vacation leave on the next regular payday. The termination date will coincide with the last date of pay. In no event will an employee who has not completed at least one year of satisfactory service receive terminal vacation pay.

### **Leave of Absence**

Employees on paid leave will continue to accrue vacation leave. Employees on unpaid leave will not accrue vacation leave if they are on unpaid leave for more than 15 days during any calendar month. This policy does not apply if explicitly permitted leave under another policy.

### **Military**

Service in the Tennessee National Guard, militia, or military reserves may be charged as vacation leave at the option of the employee after his/her military reservist leave has been exhausted. Employees who opt to coincide vacation time with military leave shall receive full pay for the specified vacation leave above and beyond as provided for by Tennessee law. The City of Harriman may not force any member of the military to use his/her leave while on active duty or training.

**Vacation Leave**

Vacation leave will be granted to regular employees but may not be taken until the employee has completed 12 months of continuous service. Annual leave may not be taken until it is earned. For annual leave purposes, time is earned beginning with the date of regular employment to the anniversary date each year.

Vacation leave time for regular full-time employees will be calculated according to the following schedule:

<b>Years of Service Hours Earned per Month</b>
<b>1-2 3.33</b>
<b>2-5 6.67</b>
<b>Over 5 10</b>

**Maximum Accrual Rates**

<b>Years of Service Maximum Limit</b>
<b>1-2 80 hours</b>
<b>2-5 120 hours</b>
<b>Over 5 160 hours</b>

If an employee hits maximum accrual rates, they will stop accruing additional time until hours are used.

Vacation leave will be scheduled in advance for the mutual convenience of the employee and the city so proper adjustments can be made in the work schedules. Department heads preparing vacation schedules will give a choice of dates based on the requirements of maintaining adequate service in the department., and an employee may not begin his/her vacation leave until his/her request has been approved by the department head.

**Fire Fighters**

Because firefighters work in 24-hour shifts, they accrue, and charge leave at a different rate:

<b>Years of Service Number of Hours Earned Maximum Limit Per Month</b>
<b>1-2 6 108 hours</b>
<b>2-5 10 180 hours</b>
<b>Over 5 14 240 hours</b>

Employees on 24-hour shifts may carry over vacation hours from year to year but are determined on the employee's anniversary date. The City of Harriman does allow carryover subject to the maximum limit.

For annual vacation leave purposes, annual leave cannot be taken in less than 1-hour increments. For firefighters, leave cannot be taken in less than half shifts without advance approval of the department head.



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

Legal holidays falling within a vacation period are not to be counted as vacation days. There will be no pay in lieu of vacation. Vacation/annual leave will not accrue when a regular full-time employee is on "leave without pay" for 15 days during any calendar month and no annual leave will accumulate. Employees may not borrow against future annual vacation or transfer earned leave to another employee.

### **C. SICK LEAVE**

Sick leave should not be considered a right which an employee may use at his/her discretion, but rather as a privilege. It is intended to be used for legitimate sick leave purposes only. Each employee should attempt to build as much sick time as possible as a buffer against unexpected absences and emergencies. Employees are encouraged to take sick leave when they are ill, but at the same time are cautioned against abuse of sick leave or a pattern of abuse.

#### **Sick Leave Approval**

The employee is required to notify his/her supervisor as soon as practical but no later than one hour prior to the start of the workday. The employee should make every effort to reach the supervisor directly and prior to the start of the work shift to explain the reason for absence. Voicemails or emails are not considered acceptable notice.

#### **Temporary / Seasonal Employees**

Temporary / Seasonal employees are not eligible for sick leave.

#### **Workers' Compensation**

Employees on Workers' Compensation will continue to accrue sick leave during the period of absence.

#### **Leave of Absence**

Employees on paid sick leave will continue to accrue sick leave. Employees on unpaid leave 15 days during any calendar month will not accrue sick leave, unless required by local, state, or federal law.

#### **Sick Leave Uses:**

Sick leave may only be used for the following purposes:

1. Employee or minor dependent is incapacitated by illness or non-job-related injury.
2. Employee or minor dependent is seeking medical, dental, optical, psychological, or other diagnosis and treatment.
3. Necessary care and attendance of a member of the employee's eligible family members.
4. Death of a member of the employee's immediate family.
5. Death of a member of the employee's family which is not defined as an immediate family member shall be limited to one day and/or 8 hours. Relatives for this purpose are limited to aunts, uncles, nieces, nephews, and cousins.
6. Any other reason that is allowable under the Family Medical Leave Act or other applicable state or federal law(s).

Years of Service Hours Earned per Month	
ALL eligible employees	8 hours

## **Sick Leave Abuse**

Employees who abuse sick leave or deliberately make or cause to make false or misleading statements or claims regarding the necessity for sick leave will be subject to disciplinary action and/or termination of employment. Absences due to illnesses or injuries that fall under FMLA or Workers' Compensation will not be counted against an employee's attendance record. Applicable documentation will be required.

## **Health Care Provider's Statement**

Whenever possible, an employee should provide a healthcare provider's note or other evidence of illness in writing. A health care certificate should specify that the employee was ill and unable to work on the specific dates of absence being requested as sick leave. The department head may require a health care provider's statement at any time.

## **D. TRAINING**

Employees are encouraged to take advantage of education and training benefits offered to employees of the city to improve their job skills and qualify for promotions. These benefits are limited to training and education that is relevant to the employee's current position or determined by management to provide them with expanded skills and abilities to contribute to the goal and objectives of the City of Harriman. Training will be available to all employees on a first come-first served basis, subject to availability of funding, business necessity, and prior approval of the department head.

## **E. FAMILY AND MEDICAL LEAVE ACT**

### **Purpose**

The purpose of this policy is to provide a family and medical leave policy in compliance with Public Law 103-3, titled Family and Medical Leave Act (FMLA) of 1993. The policy also provides the changes to FMLA that come as part of the National Defense Authorization Acts as amended.

### **Eligibility**

The family and medical leave policy is applicable to employees who have worked at least 12 months for the city and who have worked at least 1,250 hours during the preceding 12-month period, and work for an employer with 50 or more employees within a 75-mile radius of the worksite. Such employees are eligible for a maximum of 12-26 weeks leave under the act, depending upon eligibility circumstances. Special rules apply for husbands and wives employed by the same employer, for exempted key employees (top 10 percent of all wage earners, and who are paid on a salary basis), and for local educational agencies. Individuals who are *not* covered include elected officials, political appointees, volunteers, independent contractors, and legal advisors.

### **FMLA Circumstances**

Employees may be eligible for family and medical leave for one or more of the following reasons:

1. For the birth and care of the newborn child of the employee;
2. For placement with the employee of a son or daughter for adoption or foster care;
3. To care for an immediate family member with a serious health condition as defined by the FMLA;
4. Medical leave when the employee is unable to work because of a serious health condition;
5. To care for an immediate family member as defined under the FMLA who is injured while on active duty if that injury renders the service member unfit for military duty;
6. To handle a "qualifying exigency" relating from an employee's spouse or child being called to active duty.

## **Paid / Unpaid Leave**

Family Medical Leave (FML) may be paid or unpaid. If the employee has available paid leave, that leave will run concurrently with FMLA. If the employee does not have paid leave available, or he/she exhausts paid leave, while out on FML, the remainder of the approved FML will be unpaid. Employees on unpaid leave will not accrue paid leave if they are on unpaid leave for more than 15 days in a month.

Employees requesting FML must generally use their accumulated sick leave, or annual/vacation leave. The combination of paid leave, and unpaid leave may not exceed the total allowable leave under the FMLA.

## **Guidelines**

An eligible employee may take up to 12 weeks of FMLA in a 12-month period for the birth of a child or the placement of an adopted or foster care child. Leave may also be taken to care for one's self, a child, spouse, or parent who has a serious health condition. The right to take leave applies equally to male and female employees who are eligible. Eligible employees may take up to 12 weeks of FMLA to deal with family issues resulting from a spouse, son, daughter or parent being called to active duty (including being notified of an impending call to active duty).

Eligible family members of military personnel defined as the spouse, son, daughter, parent or next of kin of a covered service member may take a maximum of 26 weeks leave under FMLA to care for a wounded member of the armed forces. This includes family members of the National Guard or Reserves who are undergoing medical treatment, recuperation, therapy or other medical treatment for a "serious injury or illness".

The "parent", as defined in the Family and Medical Leave Act, need not be the employee's biological parent, provided that the individual "stood in loco parentis" (acted as a parent), to the employee when the employee was a child. Benefits under FMLA are not extended to parent's "in-law".

FMLA defines the term "spouse" to mean a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a same-sex marriage or common law marriage. "Spouse" also includes a husband or wife in a marriage that was validly entered into outside of the United States if it could have been entered into in at least one state. No employer would be required to grant an eligible employee FMLA to care for an unmarried domestic partner.

"Son or daughter" is defined in part as one who is under age eighteen (18) or as an adult who is incapable of self-care because of a mental or physical disability. Medical leave may be taken for a biological child, as well as foster children, adopted children, stepchildren or legal wards such as a niece, nephew or grandchild whom the employee is raising.

Serious health condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Inpatient care in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment.
2. A period of incapacity of more than three consecutive calendar days that also involves treatment two or more times by a health care provider or treatment which results in a regimen of continuing treatment under the supervision of the health care provider.
3. Any period of incapacity due to pregnancy or for prenatal care.
4. A chronic condition that requires periodic treatments, continues over an extended period of time, and may cause episodic rather than a continuous period of incapacity.
5. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective, requiring continuing supervision of a health care provider.

6. Multiple treatments either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three calendar days in the absence of medical intervention or treatments, such as cancer, severe arthritis or kidney disease.

Serious Injury or Illness for an Injured service member is defined as a covered service member's injury or illness incurred in the line of duty on active duty in the Armed Forces that may render the service member medically unfit to perform the duties of the member's office, grade, rank, or rating. This could include medical treatment, recuperation, therapy, outpatient care and other treatments for a serious injury or illness.

During periods of unpaid FML, an employee may not accrue any additional seniority or similar employment benefits during the leave period in months in which they work fewer than 15 days; or any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken leave.

### **Spouse / Same Employer**

If spouses are employed by the same employer and eligible to take leave for the birth or adoption of a child, or care for a parent, their aggregate leave under FMLA is limited to 12 weeks. If the father takes four weeks leave to care for a child, the mother would be entitled to eight weeks leave, for a total of 12 weeks. If, however, the spouses experience their own serious health condition, both employees are entitled to the full 12 weeks.

### **Right to Return to Work**

On return from FMLA, an employee is entitled to be returned to the same position the employee held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to such reinstatement even if the employee has been replaced or his/her position has been restructured to accommodate the employee's absence.

If the employee is unable to perform the essential functions of the position because of a physical or mental condition, including the continuation of a serious health condition, the employee has no right to restoration to another position under the FMLA. The city, however, may be required by the Americans with Disabilities Act (ADA) to offer the employee an accommodation (i.e. additional leave, light duty, job restructuring, etc.).

### **Notice and Scheduling**

An eligible employee must provide the city at least 30 days advance notice of the need for leave for birth, adoption, or planned medical treatment when it is foreseeable. This 30-day advance notice is not required in cases of medical emergency or other unforeseen medical events.

Parents who are awaiting the adoption of a child and are given little notice of the availability of the child may also be exempt from this 30-day notice.

It is the city's responsibility to designate leave in writing as FMLA leave and to notify the employee. Employees may not retroactively claim that leave was for FMLA. Failure to provide notice of the need for FML may result in the leave not being designated as FML.

The city will, if necessary, provide the notice of employee FMLA rights in alternate formats.

### **Certification**

The city reserves the right to verify an employee's request for FMLA. If an employee requests leave because of a serious health condition or to care for a family member with a serious health condition, the city may require that the request be supported by certification from the health care provider of either the eligible employee or the family member, as appropriate. Failure to submit proper certification may result in a delay of FMLA approval. If the city has a reason to question

the original certification, the city may, at the city's expense, require a second opinion from a different health care provider chosen by the city. The health care provider may not be employed by the city on a regular basis. If a resolution of the conflict cannot be obtained by a second opinion, a third opinion may be obtained from another provider and that opinion will be final and binding.

Payment for the second opinion shall be borne by the employee. Payment for the third shall be divided between the employee and the city. This certification must contain the date on which the serious health condition began; its probable duration, and appropriate medical facts within the knowledge of the health care provider regarding the condition. The certification must also state the employee's need to care for the family member. Medical certifications will be treated as confidential and privileged information under HIPAA and the State's Public Records laws as appropriate.

An employee may be required to report periodically to the city the status and the intention of the employee to return to work. Before return is granted, employees who have taken unpaid leave under this policy may be required to furnish the city with a medical certification from the employee's health care provider that the employee is able to resume work.

Failure to provide certification in a timely manner may result in delay or denial of FMLA.

### **Reduced and Intermittent Leave**

FMLA leave may be taken intermittently or on a reduced schedule when medically necessary as certified by the health care provider. Intermittent leave is defined as the smallest increment the payroll system will accommodate. Intermittent or reduced leave schedules for routine care of a new child can be taken only with the city's approval. The schedule must be mutually agreed upon by the employee and the city.

Employees on intermittent or reduced leave schedules may be temporarily transferred by the city to an equivalent alternate position that may better accommodate the intermittent or reduced leave schedule.

Intermittent or reduced leave may be spread over a period of time longer than 12 weeks, but it will not exceed the equivalent of 12 workweeks total leave in a 12-month period.

### **Restoration**

Employees who are granted leave under the FMLA policy will be reinstated to an equivalent or the same position held prior to the commencement of their leave. Certain highly compensated key employees, who are salaried and among the 10 percent highest paid workers, may be denied restoration.

Restoration may be denied to key employees if:

1. the city shows that such denial is necessary to prevent substantial and grievous economic injury to the city's operations;
2. the city notifies the employee that it intends to deny restoration on such basis at the time the city determines that such injury would occur; and
3. in any case in that the leave has commenced, the employee elects not to return to work within a reasonable period of time after receiving such notice

Employees voluntarily accepting a light duty assignment in lieu of continuing FML maintain their right to restoration to the original or an equivalent job until the twelve (12) weeks of FMLA has passed.

### **Failure to Return to Work**

According to the FMLA "if an employee is unable to or does not return to work at the end of twelve (12) weeks of FMLA, all entitlement and rights under the FMLA cease at that time; the

employee is no longer entitled to any further restoration rights under the FMLA, and the employer is no longer required to maintain group health benefits pursuant to the FMLA.”

### **Notification of Discharge**

An employee may be discharged from employment at the end of the twelve (12) week entitlement period if the employee has not returned to work, has not supplied written notification of their intent to return to work or is unable to perform his/her job duties. The city, however, may be required by the Americans with Disabilities Act (ADA) to offer the employee an accommodation (i.e. additional leave, light duty, job restructuring, etc.) prior to discharge.

### **The 12-Month FMLA Period**

The 12-month period during which an employee is entitled to 12 workweeks of FML is measured as follows. An employee is entitled to 12-26 weeks of leave during the 12-month period after the leave begins. The next FML period will begin the first time the employee requests FMLA after the completion of the previous 12-month period.

### **Denial of FMLA Leave**

If an employee fails to give timely, advance notice when the need for FMLA leave is foreseeable, the city may delay the taking of FMLA leave until 30 days after the date the employee provides notice to the city of the need for FMLA leave.

If an employee fails to provide, in a timely manner, a requested medical certification to substantiate the need for FMLA leave due to a serious health condition, the city may delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave is not designated as FML.

If an employee fails to provide a requested fitness-for-duty certification to return to work, the city may delay restoration until the employee submits the certification.

### **Employee Benefits While on FMLA**

During periods of FML, the city will continue to provide health insurance benefits at the employee rate. If premiums are current, the city will maintain health insurance benefits during periods of unpaid leave without interruption. Any payment for premiums or other payroll deductible insurance policies must be paid by the employee. The city is obligated to reinstate employment benefits upon an employee's return to work.

The city has the right to recover from the employee all health insurance premiums paid by the employer during the unpaid leave period if the employee fails to return to work after leave. In the event that an employee is unable to pay his/her portion of premiums during the time of unpaid FML, the city may deduct any unpaid premiums from the employee's pay upon return to work, subject to FLSA restrictions. Employees who fail to return to work because they are unable to perform the essential functions of their job, because of their own serious health condition, or because of the continued necessity of caring for a seriously ill family member may be exempt from this recapture provision.

FML under this policy does not constitute a qualifying event that entitles an employee to the Consolidated Omnibus Budget Reconstruction Act (COBRA) benefit; however, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work. At that point, the employee ceases to be entitled to leave under this policy and may be offered COBRA.

### **Workers' Compensation While on FMLA**

Workers' Compensation injury/illness generally meets the criteria for a serious health condition, therefore the workers' compensation absence and the FMLA leave entitlement will run concurrently

## **F. MILITARY LEAVE**

Any employee who is a member, or may become a member of any reserve component of the armed forces of the United States or of the Tennessee Army and Air National Guard will be entitled to a leave of absence from their respective duties for periods of military service during which they are engaged in the performance of duty or training in the service of this state, or of the United States, under competent orders. While on such leave, the employee will be granted paid leave up to twenty (20) days (160 hours) in any one (1) calendar year.

In addition to the leave of absence provided above, employees who are members of the Tennessee Army and Air National Guard on active state duty or the Tennessee State Guard and Civil Air Patrol shall be entitled to an unpaid leave of absence from their respective duties, without loss of time, pay not specifically related to leave of absence time, regular leave or vacation, or impairment of efficiency rating for all periods of service during which under competent orders he/she is engaged in the performance of duty or training in the service of this state, including the performance of duties in an emergency.

Qualified employees who seek paid leave under this policy must provide the official order calling for their service or training to their supervisor. Employees will receive full compensation for a period of twenty (20) days (or 160 hours) of military leave each calendar year, excluding holidays and scheduled off days. Such leave will not be charged to any form of accrued paid leave. An employee requesting military leave shall provide the city the dates for training and travel time in advance. After the twenty (20) working days (or 160 hours) of full compensation, the city will not provide partial compensation to its employees while under competent orders. After the twenty (20) working days (or 160 hours) of full compensation, members of any reserve component of the armed forces of the United States, including members of the Tennessee Army and Air National Guard, may use up to five (5) days of sick leave in lieu of vacation leave for the purposes of not having to take leave without pay.

Pursuant to T.C.A. § 42-7-102, members of the United States Air Force Auxiliary Civil Air Patrol who participate in a training program for the Civil Air Patrol, or in emergency and disaster services, as defined in T.C.A. § 58-2-101, are entitled to a leave of absence with pay for a period of not more than fifteen (15) days during a calendar year for such purposes if the leave of absence is at the request of the employee's wing commander or the wing commander's designated representative. Employees granted leave are entitled to their regular salary during the time that they are away from their regular duties. All the rights and benefits of the employee continue as if a leave of absence had not been granted.

It is the responsibility of the employee to provide a copy of valid competent orders to his/her supervisor in order to schedule military leave. Leave will be paid only for regularly scheduled work days.

## **G. LEAVE OF ABSENCE (WITH OR WITHOUT PAY)**

If the employee exhausts all of his/her annual and sick leave, is not eligible for FMLA, and still needs time off for personal health reasons, he/she may apply for a leave of absence for up to three (3) months if he/she is a full-time employee. The request for leave must be given to the employee's immediate supervisor and the department director at least thirty (30) days prior to the start of the requested leave unless the leave is an emergency.

Regardless of the reason for the leave, it is essential that the City Manager be notified to ensure that benefits are properly administered. .

The department director may or may not approve the request for a leave of absence. The decision is at his/her discretion, unless the leave qualifies under the Family Medical Leave Act, Military Leave, or is deemed a reasonable accommodation under ADA. Some of the matters considered in approving the request are the employee's length of service, employment record and the reason for the absence.

While an employee might originally request a leave of absence for a period of three (3) months, it is possible that extensions may be granted. However, the total leave and extensions for any one cause cannot exceed six (6) months.

Employees will not be eligible for accrual of sick and annual leave/paid holidays while they are on an approved unpaid leave of absence for 15 days in a calendar month.

Employees must notify their supervisor of the anticipated date of return to work prior to that date. The employee is responsible for notifying his/her supervisor, department head and the City Manager. When an employee returns from an approved leave of absence, he/she may be placed in their previous or a similar position, if available. If the same or similar position is not available, the employee may receive preference for employment in any available position for which he/she is qualified.

If the employee fails to return to work at the conclusion of the leave of absence, the employee will be subject to disciplinary action. If the employee is unable to return to work, he/she is responsible for requesting an extension (in advance) from the supervisor or department director.

There may be changes in your employee benefits during a leave of absence. Employees should contact the City Manager to determine what changes he/she may be subject to.

### **Maintenance of Benefits during Leave of Absence**

The city is not required to maintain employee benefit coverage while on an unprotected, unpaid leave of absence. In cases where the leave of absence would trigger a qualifying event (such as a termination of coverage) due to a reduction in work hours, COBRA will be offered, if applicable.

### **H. JURY SERVICE LEAVE**

When an employee receives a summons to report for jury duty, the employee is required to provide a copy of the summons to his/her immediate supervisor within 1 business day of receiving the summons. Upon presentation of the summons, the employee will be excused from employment for the day or days required of the employee while serving as a juror in any court of the United States or the state of Tennessee; provided, that such employee's responsibility for jury duty exceeds three (3) hours during the day for which excuse is sought.

Upon release from jury duty during the employee's normal working hours, he/she will be expected to return to duty. Employees will receive full pay during jury service. The city will pay the employee such employee's usual compensation and may deduct an amount equal to the fee or compensation the employee received for such employee's jury service.

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, such employee will 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 such person's responsibility for jury duty exceeds three (3) hours during a day, then such person shall be excused from the person's next scheduled work period occurring within twenty-four (24) hours of such day of jury service. Any question concerning the application of the provisions of this subsection to a particular work shift or shifts shall be conclusively resolved by the trial judge of the court to which the employee has been summoned.

### **I. COURT LEAVE**

Employees are authorized to take court leave to attend court on city related business as a result of a subpoena. If at any time during the judicial process the employee is released from such duty, the employee should immediately report back to his/her work station and finish out his/her regularly scheduled shift. Upon return to duty, the employee must furnish evidence of having rendered the service required for the court service. The employee may be asked to sign his/her court pay check to the city and receive his/her regular pay for the period of job-related court leave. Court leave is not charged to any form of accrued paid leave.

An employee who is issued a subpoena on a non-city related business matter must use their personal leave time for any time during which he/she would be scheduled to work. Any employee will not be paid his/her regular wages unless testimony is dependent on his/her actions while acting in his/her capacity as an employee of the City of Harriman.

### **J. VOTING LEAVE**

It is the policy of the city to provide employees time off to vote in state, national, and local elections and to establish a procedure for reporting the time missed from work.



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. Employees will work within department procedures, including early request off notification, to ensure adequate coverage. The supervisor may specify the hours during which the employee may be absent to vote, and the time off may not exceed three hours. **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.**

Time off to vote shall be recorded as non-duty pay hours. Time off to vote is recorded for nonexempt employees as non-worked time when calculating overtime.

In accordance with Public Chapter 741, which amended TCA Section 2-9-103 effective April 15, 1998, any full-time employee appointed by a county election commission to work part-time as a voting machine technician, shall be granted unpaid leave for the day(s) required for the technician's duties. Supporting documentation may be required by the appropriate approving authority for the period of duty.

Any employer may not require the employee to use accrued annual leave time for the period. However, either may be used at the employee's option.

#### **K. INCLEMENT WEATHER LEAVE**

It is the city's intent to remain open through all-weather situations unless determined the essential functions of the city cannot safely be administered. This decision will be made by the City Manager, with appropriate departmental input. Department heads and supervisors of departments deemed essential will make appropriate plans and arrangements to ensure appropriate staffing is maintained. Department supervisors are responsible to ensure appropriate staffing.

However, when the weather conditions appear to be so severe that an employee fears for his/her safety in traveling to or from the work site, he/she may be absent with leave if the following conditions are met:

1. The employee informs his/her immediate supervisor of his/her absence and the reason for it as soon as possible.
2. The employee reports to work immediately if a change in weather conditions allows safe transportation to the work site.
3. The employer will deduct the missed workday (or portion thereof) from accumulated vacation leave. Reporting this leave shall follow the same requirements as other leave.

The policy is meant for those who are in danger due to weather conditions only. Should any employee abuse this policy, he/she will be subject to disciplinary action. In situations where advanced notice of closure is known the City Manager will communicate such closure via appropriate means.

## SECTION VI – EMPLOYEE BENEFITS

### A. HEALTH BENEFITS

#### Health Benefits

The city recognizes that employee benefits are a critical component in career decisions. The city intends to provide a comprehensive benefits package that remains affordable, and value based. The City of Harriman may change benefit offerings as health care reform evolves and will remain in compliance with all applicable laws.

#### Eligibility

Generally, employees are eligible for benefits when employees work a minimum of 40 hours per week. These benefits may include dental coverage, vision coverage, and flexible benefit options. Ongoing regular employees, other than seasonal employees, who are scheduled to work 30 hours per week, or more are entitled to an offer of health benefits. Ongoing, variable hour employees are subject to an initial measurement period of 12 months. During this initial measurement period, no offer of health insurance will be made. If during the 12-month measurement period the ongoing variable hour employee is determined to have worked an average of 30 hours per week, an offer of health insurance will be made for the subsequent stability period of 12 months.

Employees are responsible to list only dependents that are eligible for coverage as defined by the plan rules. If a covered dependent becomes ineligible/eligible based on the plan rules or a change in law, it is the employee's responsibility to notify the City Clerk immediately. Employees must notify the City Clerk of any changes in status within 30 days of the status change/qualifying event. This includes dependent status change, address changes, divorce, marriage, birth, adoption, reduction in work hours, or any other change that could affect benefit plan eligibility.

#### Health Coverage

Eligible employees must enroll for coverage within 30 days of employment or a qualifying event excluding newly gained eligibility as provided for under the Affordable Care Act. Temporary employees, seasonal employees, and interns are **not** eligible for health coverage.

#### Annual Enrollment / Transfer Period

Health plans, benefit designs, eligibility rules, and premiums are subject to change each plan year based on the previous year's claims experience.

#### Dental & Vision Coverage

Additional coverage such as dental, vision, wellness and flexible benefits coverage may be available.

#### Flexible Benefit Plans / Section 125

The flexible benefit plans offered by the city allow employees to pay their health insurance premiums on a pre-tax basis. If employees enroll in health, dental, or vision insurance, the premiums may be deducted from his/her paycheck before taxes, saving employees and the city from paying taxes on those premiums.

#### Contribution

The city may elect to contribute toward the cost of health benefits. The city's contributions are subject to change each year based on budgetary needs. Premium costs to the employee will be determined to be compliant with affordability provisions of the Affordable Care Act.

#### Qualifying Events

Employees are responsible to notify the City Clerk if they experience any significant life event such as birth, marriage, divorce, legal separation, adoption, legal placement of a child, change of address, reduction in employee's regularly scheduled work hours, or a dependent change in status (i.e., school status). Some events will allow you to make changes to your benefits including adding or dropping dependents or terminating / adding

coverage. Employees should notify the City Clerk within 30 days of experiencing a qualifying event. Failure to follow procedure may result in denial of coverage or denial in refund on premiums.

## **B. COBRA – CONTINUATION COVERAGE**

Under the federally mandated Consolidated Omnibus Budget Reconciliation Act, the city offers employees and their families the opportunity to temporarily extend their health insurance coverage in certain instances in which coverage under the group health plan would normally end. Former employees may not be required to pay more than the group rate for this coverage, plus a 2 percent administration fee. (That is, 102 percent of what it costs the city for the same coverage.)

Some examples of triggering events could be reduction in employee's hours resulting in loss of eligibility, termination of employment (voluntary or involuntary), dependent eligibility changes (age), divorce, and legal separation.

Employees covered under the city plan have a right to continue coverage if they lose it through reduction in regular work hours or employment termination for reasons other than gross misconduct.

A spouse of a covered employee also has a right to continue coverage if coverage would be lost because the employee dies, employment is terminated, the employee and spouse become divorced or legally separated, or the employee becomes eligible for Medicare benefits.

Dependent children may also continue coverage if the employee dies, employment is terminated, the parents become divorced or legally separated, the employee becomes eligible for Medicare, or the child ceases to be a "dependent child" under the terms of the plan.

If termination or reduction in hours is the qualifying event that triggers lost coverage, continuation coverage can be in effect for 18 months. All other qualifying events will trigger continuation coverage that lasts up to 36 months. Coverage will end before 18 or 36 months, however, if certain other events take place (i.e. if the employee becomes eligible for coverage under another group health plan).

Employees and family members have the responsibility to inform the plan administrator about any change in status. Failure to do so may terminate rights to elect continued coverage. Those eligible for continuation coverage have 60 days from the date they would normally lose coverage to elect to continue under the plan.

### **Premium Payments**

Failure to make timely premium payments may result in termination of coverage.

## **C. LIFE INSURANCE**

The city offers basic life insurance to employees. The value of life insurance may be set as needed by the City Council.

## **D. DEATH OF AN EMPLOYEE**

Upon the death of a regular employee, his/her beneficiary will receive his/her next due payroll check, pay for accrued vacation time, if eligible, for such time. Further, his/her beneficiary shall be given complete assistance by the City Clerk or designee in settling pension, life, and hospital insurance benefits, if applicable.

## **E. UNEMPLOYMENT COMPENSATION**

The state of Tennessee offers unemployment benefits through the Employment Security Division.

Unemployment insurance benefits provide income to individuals who have lost work through no fault of their own. The benefits are intended to partially offset the loss of wages while an unemployed worker searches for suitable work, or until his employer can recall him to work.

This coverage is authorized in the Tennessee Employment Security Law, which requires most types of employers with one or more employees to pay the cost of the insurance. Nothing is deducted from the employee's wages to pay for this coverage.

To find out more about Unemployment Compensation eligibility, contact the Tennessee Department of Labor and Workforce Development.

## **F. RETIREMENT**

The City of Harriman participates in the Tennessee Consolidated Retirement System (TCRS). Eligible employees hired on or before September 30, 2015, are enrolled in the traditional TCRS plan. Eligible employees hired on or after October 1, 2015, are enrolled in the TCRS hybrid plan. The city contributions to the defined contribution (401(k)) plan may be changed each year based on budgetary needs.

## SECTION VII – SAFETY

### A. WORKPLACE SAFETY

Workplace safety is everyone's responsibility. As part of the safety management plan, the city, its management and employees are responsible for making sure all procedures are followed and reporting any safety issues. The City of Harriman complies with state and federal guidelines regarding safety.

The city has a designated safety coordinator for purposes of reporting and complying with OSHA and TOSHA and other regulatory and safety agencies. The city's safety director is the City Manager or his/her designee.

Management will:

- Provide recommendations for necessary safety equipment to perform assigned work in a safe manner.
- Provide recommendations on the elimination of known hazardous conditions at city worksites.
- Provide recommendations on training in accident prevention and promoting safe practices.
- Provide recommendations on the establishment of appropriate rules for safe conduct of city employees while on duty.

Employees must ensure that they:

- Follow prescribed safety rules and regulations provided for their benefit, health, and safety. Each employee is responsible to use all safety equipment and devices provided by the city in performing required job duties. Employees will identify safety problems and carry out each work assignment or task in a safe and responsible manner. If an accident occurs, the employee is required to immediately complete an employee's report of accident/injury and applicable state/federal forms.
- The employee is responsible to cease work immediately and cause the stoppage of work of other employees if the operation of unsafe equipment or working environment exists.
- Report any unsafe working conditions, or issues with safety protocol, equipment, etc.
- The appropriate corrective measures will be undertaken by a leader to remove the unsafe work condition or cause the repair of unsafe equipment. Under no circumstances should an employee be directed by a leader to continue to work in an unsafe work site or operate unsafe equipment until the unsafe condition has been properly addressed.
- Failure to report properly an unsafe condition or piece of equipment may result in discipline up to and including termination of employment.
- Failure of a leader to respond properly to correcting an unsafe workplace condition or unsafe piece of equipment may result in discipline up to and including termination of employment.
- Should an unsafe work site or equipment condition cause a disruption in completing the task, the leader will immediately reassign the employee to other duties until such time as he/she may continue the required work to complete the assigned task.

### **Safety Rules by Department**

Each department may develop specific safety rules pertinent to their respective department. Safety rules shall be submitted to the City Manager. Approved departmental safety rules have the same force and effect as these personnel regulations.

### **Reporting On-the-Job-Accidents and Injuries**

Any employee involved in an accident or injury on the job, however slight, shall immediately report the accident or injury to his or her supervisor, department head, City Clerk, City Manager and/or other responsible city officials such as the designated TOSHA/OSHA compliance coordinator. Failure to report an accident or injury may result in delaying proper medical treatment of the injury sustained by the employee and could result in denial of a claim for compensation. Failure to report an on-the-job accident or injury, however, slight, may result in disciplinary action up to and including termination of employment.

### **Emergency Medical Treatment**

If an employee is injured to the extent that emergency medical treatment is required, the employee will be transported immediately to a local health care provider or ER facility for treatment.

### **Completion of Accident Report**

The employee will immediately complete an Employee's Report of Injury/ Accident through his/her supervisor and coordinate this report with the City Clerk. Failure of the employee to properly complete the report may result in disciplinary action up to and including termination of employment.

### **Reporting Vehicle or Equipment Accidents or Damage**

All municipal employees that operate a municipal vehicle or a piece of equipment shall immediately report to their supervisor or department head any vehicle or equipment, accidents, or damage incurred while operating said vehicle or equipment and shall remain at the scene. An incident/crash report is required for all accidents to be completed by law enforcement. An accident involving the City of Harriman Police Department may require an accident report from another law enforcement agency. The employee will complete a vehicle Accident Report that describes in sufficient detail how the accident occurred. The supervisor or department head will conduct an investigation of the accident and complete a Vehicle Investigation report. These reports must be forwarded to the safety coordinator and City Manager within 24 hours if feasible.

Failure to report an accident or damage to equipment, regardless of fault or severity of the damage, will be subject to disciplinary action up to and including termination of employment.

Management shall inspect or cause to be inspected all vehicles and all pieces of equipment on a periodic basis. They will maintain a log of all reported damage and accidents incurred on each vehicle and piece of equipment within their respective department.

### **Damage to Third Party or Other Private or Public Property**

In the event an accident or damage incurred involves another party of damage to private property or another public property, the employee will request an officer from the police department or other appropriate law enforcement authority, to complete an accident report that describes in sufficient detail the accident incurred.

The employee will also fill out a property damage/loss report that describes the incident. The supervisor or department head will conduct an investigation of the incident and complete a supervisor's property damage investigation report. These reports must be forwarded to the Safety Coordinator and City Manager within 24 hours.

### **Employee Negligence While Operating a Vehicle or Equipment**

After investigation of an accident, if it can be demonstrated the employee operating the vehicle or equipment was negligent in operation of the vehicle or piece of equipment or in violation of motor vehicle regulations, operational

safety rules, department guidelines or city policy, the employee may be subject to disciplinary action or termination of employment.

### **Driving Records**

Any employee who is required as an employment condition to possess and maintain a valid Drivers or Commercial Driver's License must immediately, before reporting for duty the next workday, inform his/her supervisor should his/her license become denied, expired, suspended, restricted, or revoked any time during employment with the city. Periodic review of employee's driving records may be conducted by the city.

### **Cell Phone Use in City Vehicles**

Employees who operate a city vehicle and or equipment are not to use a handheld cell phone or other electronic device, either personal or business, while driving or operating equipment. Cell phones shall not be used while refueling city vehicles or equipment. Texting or manipulating a hand-held or electronic device of any kind is prohibited while employees are operating city vehicles and equipment. This does not apply when the use of a handheld cell phone or other device is essential to carrying out job responsibilities. However, all other options (i.e. bringing vehicle to a stop while communicating, passenger in vehicle handling communications, use of Bluetooth® devices, etc.) should be exhausted before the driver elects to use a handheld device while operating a vehicle or equipment.

## **B. NON-SMOKER PROTECTION ACT**

The city complies with the non-Smoker Protection Act of 2007 which prohibits smoking in all public places such as buildings, or vehicles, and city-owned equipment. All employees who operate city-owned vehicles are prohibited from smoking in the vehicle or piece of equipment. This includes other occupants that may be transported in the vehicles. No person shall use tobacco products in a city-owned or leased facility or vehicle. Violators of this policy are subject to disciplinary action up to termination of employment. This rule applies to electronic cigarettes, vaporizing devices, etc.

## **C. WORKERS' COMPENSATION**

An employee of the city who suffers injury or illness as a result of a work-related accident or condition shall receive compensation during the period of illness or injury by the State Compensation Insurance Fund in accordance with the Tennessee Workers' Compensation Act. Workers' Compensation pays an employee 66.67% of their weekly salary once the employee has been disabled for seven (7) days. Compensation will be made as of the eighth day of disability due to an occupational injury. If the employee is disabled for seven (7) days or more, workers' compensation will be paid retroactively from the first full day of absence from work up to the return date. Employees receiving workers' compensation payments may not supplement their pay with accrued leave while receiving temporary disability insurance payments through worker compensation insurance. Employees shall report any injury or illness incurred in the course of their employment, however minor, to their supervisor or department head. Failure to make such a report may disqualify the employee from receiving workers' compensation benefits and receiving any injury leave.

The employment of an injured employee, who is unable to return after a period of (3) three months, may be reassessed by the City Manager, at which time a determination regarding his/her employment status will be made.

### **Temporary Modified Duty**

The city is committed to providing work, when possible, for employees who have been restricted by a physician due to a work-related injury or illness, or for a temporary disability. Such work will be provided subject to availability. Employees on temporary modified duty must furnish a written update of their medical condition to the City Manager from the treating physician after each visit in order to remain in the reassigned job. Temporary modified duty assignments are limited to a period of (90) days, subject to review.

### **Assignment**

Work will be assigned due to the nature of the injury or illness and the limitations set forth by the treating physician. Every effort will be made to place employees in positions within their own departments, but if

necessary, employees will be placed wherever an appropriate position is available. The city will provide a written offer of temporary modified duty to the employee for which the employee is qualified to perform at the time the offer is made. The employee will be required to accept or reject the offer in writing within three (3) days.

### **Compensation**

While on temporary modified duty, employees will continue to receive their regular rate of pay. Employees who are placed outside their department will not continue to have their salary charged to their regular department. Departments which require shift work which results in total accumulated hours in excess of forty (40) hours per work week may pay an employee at their normal rate of pay as long as the employee performs a temporary modified duty position with total accumulated hours of no less than forty (40) hours per week.

### **Maximum Medical Improvement**

Upon reaching Maximum Medical Improvement under applicable Tennessee Worker Compensation laws, the employee's medical condition shall be assessed as to the permanent medical restrictions and his/her ability to perform the essential duties of his/her normal work assignment. If the injured employee cannot return to his/her regular position, the City Manager in conjunction with the department head/supervisor may attempt to find employment within the employee's department or within another department, if available. Reasonable accommodation will be provided to qualified, disabled individuals unless the accommodation would pose an "undue hardship" on the city. Unless required by law, employees are not guaranteed that a position will be offered if future employment is assured.



## SECTION VIII - DRUG & ALCOHOL TESTING POLICY

### A. PURPOSE

The City of Harriman, Tennessee, 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 of Harriman to provide all employees with a safe and secure workplace in which each person can perform his/her duties in an environment that promotes individual health and workplace efficiency. Employees of the City of Harriman are public employees and must foster the public trust by preserving employee reputation for integrity, honesty, and responsibility.

Those employees working in safety sensitive positions must report to their supervisors any prescription or over the counter medication that they are taking that may impair their ability to safely perform their duties.

To provide a safe, healthy, productive, and drug-free working environment for its employees to properly conduct the public business, the City of Harriman has adopted this drug and alcohol testing policy. This policy complies with the: Federal Drug-Free Workplace Act of 1988, which ensures employees the right to work in an alcohol and drug-free environment and to work with persons free from the effects of alcohol and drugs; Federal Highway Administration (FHWA) rules, which require drug and alcohol testing for persons required to have a commercial driver's license (CDL); Division of Transportation (DOT) rules, which include procedures for urine drug testing and breath alcohol testing; and the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and drug testing of safety-sensitive employees in the aviation, motor carrier, railroad, pipeline, commercial marine, and mass transit industries. In the case of this policy, the Omnibus Transportation Employee Testing Act of 1991 is most significant with its additional requirement of using the "split specimen" approach to drug testing, which provides an extra safeguard for employees. The types of tests required are pre-employment, transfer, reasonable suspicion, post-accident (post-incident), random, return-to-duty, and follow-up.

It is the policy of the City of Harriman that the use of 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 may lead to disciplinary action up to including termination of employment. Prohibited and/or illegal conduct includes but is not limited to:

- being on duty or performing work in or on city property while under the influence of drugs and/or alcohol;
- 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;
- refusing or failing a drug and/or alcohol test administered under this policy;
- providing an adulterated, altered, or substituted specimen for testing;
- use of alcohol within four hours prior to reporting for duty on schedule or use of alcohol while on-call for duty; and
- use of alcohol or drugs within eight 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.

This policy does not preclude the appropriate use of legally prescribed medication that does not adversely affect the mental, physical, or emotional ability of the employee to safely and efficiently perform his/her duties. It is the employee's responsibility to inform the proper supervisory personnel of his/her use of such legally prescribed medication before the employee goes on duty or performs any work.

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; the city's policy regarding drugs and/or alcohol; and the availability of counseling. The City Manager or his/her designee has been designated as the municipal official responsible for answering questions regarding this policy and its implementation.

All City of Harriman 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, and lockers.

## **B. SCOPE**

Certain aspects of this policy may apply to full-time, part-time, temporary, and volunteer employees of the City of Harriman. The policy also applies to all applicants for positions with the City of Harriman.

## **C. CONSENT FORM**

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, medical review officer (MRO), and/or the City Manager or City Clerk, or designee. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug and alcohol testing.

## **D. COMPLIANCE WITH SUBSTANCE ABUSE POLICY**

Compliance with this substance abuse policy is a condition of employment. The failure or refusal by an applicant or employee to cooperate fully by signing necessary consent forms or other required documents or the failure or refusal to submit to any test or any procedure under this policy in a timely manner will be grounds for refusal to hire or for termination. The submission by an applicant or employee of a urine sample that is not his/her own or is adulterated shall be grounds for refusal to hire or for disciplinary action up to and including immediate termination.

## **E. DUTY TO REPORT CONVICTIONS**

Any employee convicted of violating a criminal drug statute must inform the director of his/her department of such conviction (including pleas of guilty and *nolo contendere*) in writing within five calendar days of the conviction occurring. The organization will take appropriate action within 30 days of notification. Failure to inform the city subjects the employee to disciplinary action up to and including termination of employment for the first offense. If appropriate, the city will notify the federal contracting officer pursuant to applicable provisions of the Drug-Free Workplace Act and the Omnibus Transportation Employee Testing Act.

## **F. DRUG TESTING**

An applicant or employee must carry and present a current and recent government-issued 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 separate conditions:

### **Types of Tests**

#### **PRE-EMPLOYMENT**

**All applicants are subject to pre-employment drug testing.**

Applicants, who have received a conditional offer of employment with the City of Harriman, must take a drug test before receiving a final offer of employment.

#### **TRANSFER**

Employees transferring to the fire department or police department, and/or another safety sensitive position within the city that requires a commercial driver's license (CDL) shall undergo drug testing.

#### **POST-ACCIDENT/POST-INCIDENT TESTING**

**All employees are subject to post-accident drug testing.**

Following any workplace accident (incident) determined by supervisory personnel of the City of Harriman to have resulted in property or environmental damage or in personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible drug use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) drug test. Post-accident (post-incident) testing shall be carried out within 32 hours following the accident (incident).

In instances where post-accident (post-incident) testing is to be performed, the City of Harriman reserves the right to direct the medical review officer (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) Testing for Ambulatory Employees

Following all workplace accidents (incidents) where drug 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 of Harriman to the designated urine specimen collection site within 32 hours following the accident. In the event of an accident (incident) occurring after regular work hours (Call Out), the employee(s) will be taken to the testing site within 32 hours. No employee shall consume drugs prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post 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 of Harriman and shall result in administrative action up to and including termination of employment.

#### Post-Accident (Post-Incident) Testing 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 medical review officer (MRO) of the City of Harriman appropriate and necessary information or records that would indicate only whether or not prohibited drugs 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 of Harriman or upon hiring following the implementation date. If an employee is injured, unconscious (employee is unable to communicate), or otherwise unable to give evidence consent (employee is unable to sign custody and control form) to the drug test, all reasonable steps must be taken to obtain a urine sample from the employee.

Post-accident (post-incident) urinary testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall 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 to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

Any failure to do post-accident (post-incident) testing within 32 hours must be fully documented by the attending medical personnel.

#### TESTING BASED ON REASONABLE SUSPICION

**All employees are subject to drug testing based on reasonable suspicion.**

A drug test is required for any employee when there is reasonable suspicion to believe the employee is using or is under the influence of drugs.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used drugs. This belief should be based on recent, physical, behavioral, or performance indicators of possible drug use. One supervisor who has received drug detection training must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Harriman 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 City Manager within 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 collection personnel.

## RANDOM DRUG TESTING

**Only employees of the City of Harriman holding safety sensitive positions are subject to random testing.**

“Safety sensitive positions” include but are not limited to police officers, firefighters, positions requiring a commercial driver’s license, public works equipment operators, all positions involving the construction and maintenance of electrical lines, teachers and other positions having responsibility for the safety and care of children.

The City of Harriman will comply with DOT’s annually published random rates. The City of Harriman will randomly drug screen fifty (50) percent of the total number of drivers possessing or obtaining a commercial driver’s license (CDL) as required for the performance of their job.

A minimum of 15 minutes and a maximum of two hours will be allowed between notification of an employee's selection for random urine drug testing and the actual presentation for specimen collection.

Random donor selection dates will be unannounced with unpredictable frequency. Some may be tested more than once each year while others may not be tested at all, depending on the random selection. If an employee is unavailable (i.e., vacation, sick day, out of city, work-related causes, etc.) to produce a specimen on the date random testing occurs, the City of Harriman may omit that employee from that random testing or await the employee’s return to work.

### **Return-to-Duty and Follow-Up**

Any employee of the City of Harriman who has violated the prohibited drug conduct standards and is allowed to return to work must submit to a return-to-duty test. Follow-up tests will be unannounced and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly.

Testing will also be performed on any employee possessing a CDL returning from leave or special assignment in excess of six months. In this situation, the employee will not be required to pay for the testing.

### **PROHIBITED DRUGS**

All drug results will be reported to the medical review officer (MRO). If verified by the MRO, they will be reported to the City Manager, or his/her supervisor. The following is a list of drugs for which tests will be routinely conducted (see separate section for applicable cutoff levels):

- amphetamines;
- marijuana;
- cocaine;

- opiates;
- phencyclidine (PCP);

The city may test for any additional substances listed under the Tennessee Drug Control Act of 1989 (as amended).

### **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 the City of Harriman to a drug test collection facility selected by the City of Harriman, 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 these personnel for signs of alteration, adulteration, or substitution. The employee will be asked to complete a chain-of-custody form to accompany the sample to a laboratory selected by the City of Harriman to perform the analysis on collected urine samples.

### **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 (Call Out), the supervisor or designated personnel shall take the employee(s) to the testing site within 32 hours where proper collection procedures will be administered.

The Omnibus Act requires that drug testing procedures include split specimen procedures. 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 72 hours to request sending the split specimen to another federal Department of Health and Human Services (DHHS) certified laboratory for analysis. The employee will be required to pay for his or her split specimen test(s).

For the employee's protection, the results of the analysis will be confidential except for the testing laboratory. After the MRO has evaluated a positive test result, the employee will be notified, and the MRO will notify the City Manager or his/her designee.

### **REPORTING AND REVIEWING**

The City of Harriman shall designate a medical review officer (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 of Harriman.

Reports from the laboratory to the MRO shall be in writing or by fax. The MRO or designee 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 City Manager, or his/her designee, and the employee.

Neither the City of Harriman, 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.

## **G. ALCOHOL TESTING**

An applicant or employee must carry and present a current and recent photo ID (driver's license) 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 six separate conditions:

### **TYPES OF TESTS**

#### **POST-ACCIDENT/POST-INCIDENT TESTING**

Following any workplace accident (incident) determined by supervisory personnel of the City of Harriman to have resulted in property or environmental damage, or in personal injury, including but not limited to a fatality or human injury requiring medical treatment, each employee whose performance either contributed to the accident (incident) or cannot be discounted as a contributing factor to the accident (incident) and who is reasonably suspected of possible alcohol use as determined during a routine post-accident (post-incident) investigation or who receives a citation for a moving violation arising from the accident will be required to take a post-accident (post-incident) alcohol test. Post-accident (post-incident) testing shall be carried out within two hours following the accident (incident).

#### Post-Accident (Post-Incident) Testing 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 of Harriman to the designated breath alcohol test site for a breath alcohol test within two 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) – eight (8) hours. No employee shall consume alcohol prior to completing the post-accident (post-incident) testing procedures.

No employee shall delay his/her appearance at the designated collection site(s) for post-accident (post incident) testing. Any unreasonable delay in appearing for alcohol testing shall be considered a refusal to cooperate with the substance abuse program of the City of Harriman and shall result in administrative action up to and including termination of employment.

#### Post-Accident (Post-Incident) Testing for Injured Employees

An 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 alcohol testing by qualified, licensed attending medical personnel and consent to specimen testing. If an employee is injured, unconscious (employee is unable to communicate), or otherwise unable to give evidence consent (employee is unable to sign custody and control form) to the drug test, all reasonable steps must be taken to obtain a sample from the employee. Consent shall also be given for the attending medical personnel and/or medical facility (including hospitals) to release to the medical review officer (MRO) of the City of Harriman 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 of Harriman or upon hiring following the implementation date.

Post-accident (post-incident) breath alcohol testing may be impossible for unconscious, seriously injured, or hospitalized employees. If this is the case, certified or licensed attending medical personnel shall 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 to do post-accident (post-incident) testing within two (2) to eight (8) hours must be fully documented by the attending medical personnel.

#### **TESTING BASED ON REASONABLE SUSPICION**

**All employees are subject to alcohol testing based on reasonable suspicion.**

An alcohol test is required for any employee when there is reasonable suspicion to believe the employee is under the influence of alcohol.

The decision to test for reasonable suspicion must be based on a reasonable and articulate belief that the employee is using or has used alcohol. This belief should be based on recent, physical, behavioral, or performance indicators of possible alcohol use. One supervisor who has received alcohol detection training that complies with DOT regulations must make the decision to test and must observe the employee's suspicious behavior.

Supervisory personnel of the City of Harriman 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 City Manager or City Clerk within eight hours of the decision to test and before the results of the tests are received by the department.

## RANDOM ALCOHOL TESTING

**Only employees of the City of Harriman holding safety sensitive positions are subject to random alcohol testing.**

"Safety sensitive positions" include but are not limited to police officers, firefighters, positions requiring a commercial driver's license, public works equipment operators, 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. Safety sensitive positions are determined by carefully reviewing the position requirements and tasks, and each position may vary.

It is the policy of the City of Harriman to annually test, randomly, for alcohol at least (10) percent of the total number of drivers possessing or obtaining a commercial driver's license (CDL) as required for the performance of their jobs.

A minimum of 15 minutes and a maximum of two hours will be allowed between an employee's notification of selection for random alcohol testing and the actual presentation for testing.

Random test dates will be unannounced with unpredictable frequency. Some employees may be tested more than once each year while others may not be tested at all, depending on the random selection.

If an employee is unavailable (i.e., vacation, sick day, out of city, work-related causes, etc.) to be tested on the date random testing occurs, the City of Harriman may omit that employee from that random testing or await the employee's return to work.

### **Return-to-Duty and Follow-Up**

Any employee of the City of Harriman who has violated the prohibited alcohol conduct standards must submit to a return-to-duty test. Follow-up tests will be unannounced, and at least six tests will be conducted in the first 12 months after an employee returns to duty. Follow-up testing may be extended for up to 60 months following return to duty.

The employee will be required to pay for his or her return-to-duty and follow-up tests accordingly. Testing will also be performed on any employee with a CDL returning from leave or special assignment in excess of six 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 of Harriman will 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:

Step One: 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 will be considered negative. If the result is greater or equal to 0.04 BAL, the result will be recorded and witnessed, and the test shall proceed to Step Two.

Step Two: Fifteen minutes will 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 0.00 on an air blank. If the reading is greater than 0.00, the breath alcohol technician will 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 will 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.

If the lower of the breath alcohol measurements in Step One and Step Two is 0.04 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 of Harriman up to and including termination of employment.

Any breath alcohol level found between 0.02 percent BAL and 0.04 percent BAL shall result in the employee's removal from duty without pay for a minimum of 24 hours. In this situation, the employee must be retested by breath analysis and found to have a BAL of up to 0.02 percent before returning to duty with the City of Harriman.

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 of Harriman when possible.

The completed breath alcohol test form shall be submitted to the City Manager and City Clerk.

## **EDUCATION AND TRAINING**

### **Supervisory Personnel Who Will Determine Reasonable Suspicion Testing**

Training for supervisory personnel who will determine whether an employee must be tested, based on reasonable suspicion, will include at the minimum two 60-minute periods of training on the specific, contemporaneous, physical, behavioral, and performance indicators of both probable drug use and alcohol use. One 60-minute period will be for drugs, and one will be for alcohol.

### **Distribution of Information**

The City of Harriman will sponsor a drug-free awareness program for all employees. The minimal distribution of information for all employees will include the display and distribution of:

- a. informational material on the effects of drug and alcohol abuse;
- b. an existing community services hotline number, available drug counseling, rehabilitation, and employee assistance programs for employee assistance;
- c. the City of Harriman policy regarding the use of prohibited drugs and/or alcohol; and
- d. the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

## **CONSEQUENCES OF A CONFIRMED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT AND/OR VERIFIED POSITIVE DRUG AND/OR ALCOHOL TEST RESULT**

Job applicants will be denied employment with the City of Harriman if their initial positive post offer employment drug and alcohol test results have been confirmed/verified. The City of Harriman reserves the right to deny employment to those individuals who are taking drugs or other chemicals that may impair or jeopardize their judgment and pose a safety risk to the employee, other employees, or the public.

If a current employee's positive drug and alcohol test result has been confirmed, the employee is subject to immediate removal from any safety-sensitive function and may be subject to disciplinary action up to and



including termination. The city may consider the following factors in determining the appropriate disciplinary response: the employee's work history, length of employment, current work assignment, current job performance, and existence of past disciplinary actions. However, the city reserves the right to allow employees to participate in an education and/or treatment program. The employee must satisfactorily participate in and complete the program as a condition of continued employment.

No disciplinary action may be taken pursuant to this drug policy against employees who voluntarily identify themselves as drug users, obtain counseling and rehabilitation and thereafter refrain from violating the city's policy on drug and alcohol abuse. However, voluntary identification will not prohibit disciplinary action for the violation of city personnel policy and regulations and substandard job performance, nor will it relieve the employee of any requirements for return to duty testing.

Refusing to submit to an alcohol or controlled substances test means that a driver/employee: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process and (4) refuses to submit. In either case collection personnel shall provide written documentation to the City indicating a refusal to test.

### **Voluntary Disclosure of Drug and/or Alcohol Use**

In the event that an employee of the City of Harriman is dependent upon or an abuser of drugs and/or alcohol and sincerely wishes to seek professional medical care, that employee should voluntarily discuss his/her problem with the respective department head or City Manager in private. Such voluntary desire for help with a substance abuse problem will be honored by the City of Harriman. If substance abuse treatment is required, the employee will be removed from active duty pending completion of the treatment.

Affected employees of the City of Harriman may be allowed up to 30 consecutive calendar days for initial substance abuse treatment as follows:

The employee must use all paid leave time available which runs concurrent with FMLA leave.

In the event accumulated paid leave, is insufficient to provide the medically prescribed and needed treatment up to a maximum of 30 consecutive calendar days, the employee will be provided unpaid FMLA leave for the difference between the amount of accumulated leave and the number of days prescribed and needed for treatment up to the maximum 60-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 of the City of Harriman. 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 City of Harriman 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 administrative action up to and including termination of employment.

These provisions apply to voluntary disclosure of a substance abuse problem by an employee of the City of Harriman. Voluntary disclosure provisions do not apply to applicants. Employees found positive during drug and/or alcohol testing under this policy are subject to administrative action up to and including termination of employment as specified elsewhere in this policy.

## **EXCEPTIONS**

This policy does not apply to possession, use, or provision of alcohol and/or drugs by employees in the context of authorized work assignments (i.e., undercover police enforcement, Intoxilyzer demonstrations). In all such cases, it is the individual employee's responsibility to ensure that job performance is not adversely affected by the possession, use, or provision of alcohol.

## **MODIFICATION OF POLICY**

This statement of policy may be revised by the City of Harriman 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 the City of Harriman.

## **DRUG & ALCOHOL DEFINITIONS**

For purposes of the drug and alcohol testing policy, the following definitions are adopted:

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

Alcohol Concentration - The alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test.

Alcohol Use - The consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

Applicant - Any person who has on file an application for employment, or any person who is otherwise being considered for employment or transfer to an employment safety sensitive position. For the purposes of this policy, an applicant may also be an employee who has applied for, and is offered a promotion, or who has been selected for a special assignment to a safety-sensitive position.

Breath Alcohol Technician (BAT) - An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

Chain of Custody - The method of tracking each urine specimen to maintain control from initial collection to final disposition for such samples and accountability at each stage of handling, testing, storing, and reporting.

Collection Site - A place where applicants or employees present themselves to provide, under controlled conditions, a urine specimen that will be analyzed for the presence of alcohol and/or drugs. Collection site may also include a place for the administration of a breath analysis test.

Collection Site Personnel - A person who instructs donors at the collection site.

Commercial Driver's License (CDL) - A motor vehicle driver's license required to operate a commercial motor vehicle (CMV).

Commercial Motor Vehicle (CMV) - Any vehicle or combination of vehicles meeting the following criteria: weighing more than 26,000 pounds; designed to transport more than 15 passengers; transporting hazardous materials required by law to be placarded, regardless of weight; and/or classified as a school bus.

Confirmation Test - In drug testing, a second analytical procedure that is independent of the initial test to identify the presence of a specific drug or metabolite that uses a different chemical principle from that of the initial test to ensure reliability and accuracy. In breath alcohol testing, a second test following an initial test with a result of 0.02 or greater that provides quantitative data of alcohol concentration.

Confirmed Positive Result - The presence of an illicit substance in the pure form or its metabolites at or above the cutoff level specified by the National Institute of Drug Abuse identified in two consecutive tests that utilize different test methods and that was not determined by the appropriate medical, scientific, professional testing, or forensic authority to have been caused by an alternate medical explanation or technically insufficient data. An EBT result equal to or greater than 0.02 is considered a positive result.

Consortium - An entity, including a group or association of employers or contractors, which provides alcohol or controlled substances testing as required by this part or other DOT alcohol or drug testing rules and that acts on behalf of the employers.

Department Director - The director or chief of a city department or his/her designee. The designee may be an individual who acts on behalf of the director to implement and administer these procedures.

DHHS - The federal Department of Health and Human Services or any designee of the secretary, Department of Health and Human Services.

DOT Agency - An agency of the United States Department of Transportation administering regulations related to alcohol and/or drug testing. For the City of Harriman, the Federal Highway Administration (FHWA) is the DOT agency.

Driver - Any person who operates a commercial motor vehicle.

Employee - An individual currently employed by the City of Harriman.

Evidential Breath Testing Device (EBT) - An instrument approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices."

FHWA - Federal Highway Administration.

Initial Test - In drug testing, an immunoassay test to eliminate negative urine specimens from further analysis. In alcohol testing, an analytic procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath specimen.

Medical Review Officer (MRO) - A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his/her medical history and any other relevant biomedical information.

Negative Result - The absence of an illicit substance in the pure form or its metabolites in sufficient quantities to be identified by either an initial test or confirmation test.

NHTSA - National Highway and Traffic Safety Administration.

Random Testing - A sample of individuals selected such that each possible sample from the total group has the same probability of being selected.

Refuse to Submit - Refusing to submit to an alcohol or controlled substances test means that an employee or applicant: (1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of this part; (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing in accordance with the provisions of this part; or (3) engages in conduct that clearly obstructs the testing process.

Safety-Sensitive - This may be any employee who poses a significant risk to themselves or others during the course of their job duties. Also includes employees required to have a CDL license or police officer and firefighters. Safety sensitivity is determined by looking at the totality of all job requirements and duties and the risk associated with those duties.

Safety-Sensitive Drivers - Employees in the aviation, motor carrier, railroad, and mass transit industries.

Split Specimen - Urine drug test sample will be divided into two parts. One part will be tested initially, the other will remain sealed in case a retest is required or requested.

Substance Abuse Professional - A licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the

National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

## SECTION IX – WORKPLACE VIOLENCE AND HARASSMENT

### A. WORKPLACE VIOLENCE

The city is committed to preventing workplace violence and to maintaining a safe work environment. It is the policy of the city to promote a productive, safe and healthy work environment for all employees, customers, vendors, contractors and members of the general public and to provide for the efficient and effective operation of the city's activities. Employees and customers are to be treated with courtesy and respect at all times.

Employees are expected to maintain a productive work environment free from harassing or disruptive activity including threats of physical violence. No form of bullying or harassment will be tolerated, including sexual harassment and harassment based on race, color, religion, gender or gender identity, age, national origin, disability, military status, communication with an elected public officials, free speech, refusing to participate in or remain silent about illegal activities exercising a statutory constitutional right or any right under clear public policy, political affiliation, genetic information or any other basis protected by law. This policy applies to all City of Harriman employees, elected officials, appointed officials, regular part time/ temporary employees, and contractors.

The city will not tolerate bullying, or verbal or physical conduct by an employee which harasses, disrupts or interferes with another's work performance or which creates an intimidating, offensive or hostile environment.

1. No employee or non-employee shall be allowed to harass any other employee or non-employee by exhibiting behavior including, but not limited to, the following:
  - a. Verbal harassment – Verbal threats toward persons or property; the use of vulgar or profane language directed towards others; disparaging or derogatory comments or slurs; offensive flirtations or propositions; verbal intimidation; exaggerated criticism or name-calling; spreading untrue or malicious gossip about others.
  - b. Physical Harassment – Any physical assault, such as hitting, pushing, kicking, holding, impeding or blocking the movement of another person.
  - c. Visual Harassment – Displaying derogatory or offensive posters, cartoons, publications or drawings.
  - d. Bullying – Workplace bullying refers to unwanted aggressive behavior that involves a real or perceived power imbalance. The behavior is repeated, or has the potential to be repeated, over time. The imbalance of power involves the use of physical strength, access to embarrassing information, or popularity to control or harm others. This behavior may be performed by individuals (or a group) directed towards an individual (or a group of individuals).

Under no circumstances are the following items permitted on city property, including city-owned parking areas, except when issued or sanctioned by the city for use in the performance of the employee's job:

- a. dangerous chemicals;
- b. explosives or blasting caps;
- c. knuckles; or
- d. other objects carried for the purposes of injury or intimidation.

Charges of violence and harassment may be reported to any supervisory employee of the city, including the City Manager. The city will promptly investigate reports of workplace violence including suspicious individuals or activities. The City Manager is charged with investigating all cases of workplace violence and harassment.

Depending on the severity of the charges or whether a crime is committed, the City Manager may request that law enforcement provide assistance or assume responsibility for the investigation.

Employees are obligated to report instances of harassment. Employees are also obligated to cooperate in every investigation of harassment. The obligation includes, but is not limited to, coming forward with evidence, both favorable and unfavorable, for a person accused of such conduct; fully and truthfully make written reports or verbally answer questions when required to do so by an investigator. All employees are required to assist in the course of the investigation by providing testimony, statements and evidence, as required. Failure to cooperate may result in disciplinary action.

Copies of the investigative report with recommendations for appropriate action will be turned over to the City Manager for further action.

Anyone determined to be responsible for threats of, or actual violence, or other conduct that is in violation of this policy will be subject to prompt disciplinary action up to and including termination.

Employees are encouraged to bring their disputes or differences with other employees to the attention of their supervisors or the City Manager before the situation escalates into potential violence.

The city is eager to assist in the resolution of employee disputes and will not discipline employees for raising such concerns. Employees have the right to file a police report at their own discretion.

Employees are prohibited from interfering or attempting to interfere with any departmental investigation.

False allegations will be dealt with on a case-by-case basis, and depending on the outcome, may include disciplinary action.

## **B. WORKPLACE VIOLENCE**

The following actions constitute an unlawful employment practice and are absolutely prohibited by the city when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance.

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women. An employee who feels he/she is subjected to sexual harassment should immediately contact an administrative person with whom the employee feels the most comfortable. The City Manager is the person the city designates as the investigator of sexual harassment complaints against employees.

In the event the sexual harassment complaint is against the City Manager, the investigator shall be the City Attorney or independent outside counsel appointed by the City Council, or provided through the city employment practices liability insurer.

### **Purpose**

The city will take immediate steps to stop such harassment when it occurs.

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

This policy applies to all officers and employees of the city including, but not limited to full and regular part-time employees, elected officials, seasonal and temporary employees, employees covered or exempt from the Human Resources rules or regulations, and volunteers or employees working under contract for the city.

### **Definitions**

The following actions constitute an unlawful employment practice and are absolutely prohibited by the city

when they affect employment decisions, create a hostile job environment, cause distractions, or unreasonably interfere with work performance. They are:

1. sexual harassment or unwelcome sexual advances;
2. requests for sexual favors;
3. verbal or physical conduct of a sexual nature in the form of pinching, grabbing, patting, or propositioning;
4. explicit or implied job threats or promises in return for submission to sexual favors;
5. inappropriate sexually oriented comments on appearance;
6. sexually oriented stories;
7. displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
8. sexual assault on the job by supervisors, fellow employees, or non-employees
9. demeaning, insulting, intimidating or sexually suggestive written, recorded or electronically transmitted materials (such as email, instant message, and Internet materials).

Sexual harassment includes conduct directed by men toward women, conduct directed by men toward men, conduct directed by women toward men, and conduct directed by women toward women.

### **Making harassment complaints**

An employee who feels he/she is subjected to harassment should immediately contact a person (listed below) with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

1. the employee's immediate supervisor,
2. a department head,
3. the personnel/human resources director,
4. the city clerk,
5. the city manager,
6. the mayor,
7. the city council and/or
8. the city attorney.

Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about harassment. The employee should be prepared to provide the following information:

1. his/her name, department, and position title;
2. the name of the person or people committing the sexual harassment, including their title(s), if known;
3. the specific nature of the harassment, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the harassment, or any other threats made against the employee as a result of the harassment;
4. witnesses to the harassment; and
5. whether the employee has previously reported the harassment and, if so, when and to whom.

### **Reporting and investigating harassment complaints**

The City Manager is the person the city designates as the investigator of harassment complaints against employees. In the event the harassment complaint is against the City Manager, the investigator shall be independent outside counsel appointed by the governing body, or provided through the city employment practices liability insurer.

When an allegation of harassment is made by any employee, the following shall occur:

1. the city will separate the complainant and accused party for the duration of the investigation; upon the approval of the department head and City Manager;
2. the investigator will meet with the employees, any witnesses, the supervisor(s), any other members of management considered appropriate and other individuals that may have relevant information. The investigator may elect to conduct a hearing as part of the investigation process;
3. the investigator will immediately prepare a report of the complaint according to the preceding section and submit it to the City Manager;
4. the investigator will make and keep a written record of the investigation at the time the verbal interview is in progress, including notes on:
  - a. verbal responses made to the investigator by the person complaining of harassment,
  - b. witnesses interviewed during the investigation,
  - c. the person against whom the complaint of harassment was made, and
  - d. any other person contacted by the investigator in connection with the investigation; and
5. within ten city business days of receiving the complaint, the investigator will prepare and present the findings to the City Manager and/or City Council in a report, which will include:
  - a. the written statement of the person complaining of harassment;
  - b. the written statements of witnesses;
  - c. the written statement of the person against whom the complaint of harassment was made; and
  - d. all the investigator's notes connected to the investigation.

#### **Action on complaints of sexual harassment**

Upon receiving an investigation report of a harassment complaint, the City Manager and city attorney shall immediately review the report. If the City Manager and city attorney determine that the report is not complete in some respect, they may question the person complaining of harassment, the person against whom the complaint has been made, witnesses to the conduct in question, or any other person(s) who may have knowledge about the harassment.

Based upon the report and his/her own investigation (where a separate investigation is made), the City Manager and city attorney shall, within a reasonable time, determine whether the conduct in question constitutes harassment. In making that determination, the City Manager and city attorney shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct, the context in which the alleged actions occurred, and the behavior of the person complaining. The decision of whether harassment actually took place will be determined on a case-by-case basis.

If the City Manager and city attorney determine that the harassment complaint is founded, the city shall take immediate and appropriate disciplinary action against the guilty employee, consistent with its authority under the charter, ordinances, resolutions, or rules governing its authority to discipline employees. The disciplinary action may include oral counseling, written reprimand, suspension, demotion, mandatory referral to the EAP program, or termination depending upon the severity of the matter and circumstances surrounding the incident(s). A written record of disciplinary actions, including oral reprimands, shall be maintained in the employee's human resources file. Determining the level of disciplinary action shall also be made on a case-by-case basis. The disciplinary action shall be consistent with the nature and severity of the offense and any other factors the governing body believes relate to fair and efficient administration of the city. This includes, but is not limited to, the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the city. The city will notify the employee who filed a harassment complaint of the outcome of the investigation once determined.

If the City Manager and city attorney feel that the harassment warrants disciplinary action stronger than is authorized by the charter, ordinances, resolutions, or rules governing employee discipline, they shall make that determination known, along with the report of the investigator, to the governing body of the city. If the



governing body determines that the harassment complaint is founded, it may discipline the employee consistent with its authority under the city charter, ordinances, resolutions, or rules governing employee discipline.

In all events, an employee found guilty of harassment shall be warned not to retaliate in any way against the person making the complaint, witnesses, or any other person connected with the investigation. All other city employees are also warned not to retaliate in any way to the above-mentioned parties. Any such retaliation or harassment will be dealt with immediately and may include disciplinary action.

If the employee complaining of harassment is not satisfied with the manner in which the city addressed the complaint, the employee shall be given an opportunity to present a written appeal. The written appeal must specifically identify what aspect of the city's response was not satisfactory to the employee and why it was not satisfactory. The appeal must be submitted to the City Manager within ten (10) work days from the date on which the disciplinary action was rendered. The office of the City Manager will render a written determination in the matter within ten (10) work days from receipt of the appeal.

The decision of the City Manager will be final in all such matters. The City Manager has the authority to appoint a neutral third party (arbitrator) to be the final decision-maker in lieu of the City Manager when the City Manager determines that a neutral third party is in the best interest of the city. In all cases where the complaint is filed against the City Manager, a neutral third party, appointed by the City Council, shall be used as a final decision-maker.

In cases where harassment is committed by a non-employee against a city employee in the workplace, the City Manager shall take whatever lawful action is necessary against the non-employee to bring the harassment to an immediate end.

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

### **Employee Obligation**

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

Disciplinary action may be taken against an employee who fails to report instances of harassment, or who fails or refuses to cooperate in the investigation of a complaint of harassment, or who files a complaint of harassment in bad faith. Employees are prohibited from interfering or attempting to interfere with any departmental investigation. False allegations will be dealt with on a case-by-case basis, and depending on the outcome, may include disciplinary action.

## **SECTION X – POLITICAL ACTIVITIES/ PROTECTED SPEECH**

### **A. POLITICAL PARTICIPATION**

The City of Harriman encourages all city employees to participate in the political process by registering and voting in each election. However, it is necessary to implement some policies to avoid conflict of interest between political activity and public employment in a city position.

### **B. CAMPAIGNING**

City employees, whether on or off duty, whether in or out of uniform, and whether on or off city property, shall not, at any time or any place, become a candidate for an elected city office. The city will not compensate employees for time when the employee is not performing work for the city. Any time off from work used by the employee for participation in political activities will be limited to earned days off, vacation days, or by any other arrangements worked out between the employee and the city.

In all other elections for public office, city employees may enjoy the rights of any other citizen of the state of Tennessee to be a candidate for any local political office, the right to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. The city will not compensate employees for time when the employee is not performing work for the city. Any time off from work used by the employee for participation in political activities will be limited to earned days off, vacation days, or by any other arrangements worked out between the employee and the city.

Nothing in this section is intended to prohibit any city employee from privately expressing his/her political views or from casting his/her vote in all elections.

### **C. MEETING TO DISCUSS CANDIDACY/OFFICE**

An employee who becomes a candidate for any elective office shall, within fifteen (15) days, meet with the employee's department head and the City Manager to discuss the candidacy and its potential effect on the employee's position.

### **D. PERMITTED POLITICAL ACTIVITIES**

A city employee may exercise his/her rights when acting as a private citizen, to engage in political activity, not affecting an elective city office, including but not limited to:

1. Form, join or possess membership in a political party, club or other political organization
2. Run for office in the organization (unless prohibited by ordinance) and take an active role in the management of the organization.
3. Attend meetings;
4. Vote on the positions of the organization on candidates and issues.

### **E. PROHIBITED POLITICAL ACTIVITIES**

Employees may not:

1. Use or permit others to use authority of their position with the city to endorse or actively support a candidate for any political office, including the use of any city property, uniforms, vehicles, equipment, resources, facilities, or other deemed the property and or resources of the City of Harriman.
2. Employees may not represent themselves, nor knowingly permit themselves to be represented, as city employees while engaging in any form of political activity.

3. City employees, individually, or collectively, are prohibited from endorsing or actively working for the election of, recall of, or opposing or working for, the defeat of any candidate for city office while actively on duty.
4. An employee of the city may not directly, or indirectly, coerce attempt to coerce, command or advise another city employee to pay, lend, or contribute anything of value to a party, committee, organization, agency or person for political purposes, or to campaign for or support any political candidate, or to refrain from any political activities except as provided in the Charter or this personnel document.
5. No solicitations of signatures for political petitions will be allowed, nor shall anyone seeking political office actively engage employees for political positions while city employees are on active duty.
6. Employees who are candidates for or elected to a political position or who are appointed to a city board, are required to fulfill their job responsibilities and duties under their employment with the City of Harriman.

#### **F. COMMUNICATION WITH ELECTED PUBLIC OFFICIALS**

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

## **SECTION XI - MISCELLANEOUS POLICIES**

### **A. TRAVEL POLICY**

All trips including one day or several days must be pre-approved by the department head. When attending any class, school, seminar, or other company sponsored event that is considered a one-day trip, the city will provide a per diem reimbursement for food to the employee of \$10.00 per day; however, if the event sponsor provides lunch/meals then no per diem will be paid to the employee. When attending events that require an overnight stay(s), the city will provide a per diem reimbursement for food to the employee of \$40.00 per day. All hotel accommodations in the duration of the stay will be pre-approved by the department head in writing. Upon approval by the department head, the city will reserve and pay for the room(s) and provide the employee with copies of reservations. Any other expenses such as parking, tolls, books, or other supplies that may be needed or required to participate in the event will be reimbursed at actual cost with the employee providing original receipts along with an expense form. All efforts will be made to provide a city-owned vehicle for transportation to and from the event. However, upon approval from the department head, if the employee uses his/her own personal vehicle for travel to and from the event the city will reimburse for the actual mileage at a rate that is consistent with federal government guidelines.

### **B. SOLICITATION**

Unauthorized solicitation of employees on the premises is strictly prohibited. This prohibition applies both to employees and outsiders. Solicitation of gifts (for such occasions as resignations, retirements, weddings and births) may be authorized by the City Manager. Contributions may be solicited on city property only with the permission of the City Council. 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.

### **C. PERSONAL COMMUNICATIONS**

Use of personal cellular phones/text messaging during regular work hours, except in emergency cases, is discouraged. Personal calls/text messages that must be made or received during business hours are permitted if they are held to a minimum and do not interfere with the employee's work.

Emergency phone calls/text messages may be made or received any time. Examples of emergencies are illness or severe injury to a member of the employee's family, changed plans regarding an employee's transportation home from work or extreme weather conditions.

When using office phones, long-distance emergency calls must be billed to the caller's home phone number or reimbursed by the employee making the call. Excessive phone conversations on non-emergency matters may result in disciplinary action.

### **D. RECORDING AND CAMERA DEVICES**

Electronic recorders (including cell phone applications) are prohibited, except when the use of an audio recorder is part of the employee's job responsibilities as strictly defined within his/her job description. Electronic recordings are allowed during official City Council meetings and other various public meetings. Audio recordings may also be utilized during investigations at the discretion of the City Manager or City Council.

### **E. CUSTOMER COURTESY**

Any contact with customers/citizens should be handled in a professional manner. Professionalism, politeness and courtesy are essential. Lack of courtesy and professionalism may result in disciplinary action.

## **F. FIGHTING, DISRUPTIVE BEHAVIOR, DAMAGING CITY PROPERTY**

Fighting, disruptive behavior, and intentionally defacing or damaging city property are not permitted. Employees engaging in these activities will be subject to disciplinary action.

## **G. GAMBLING**

The city takes the position that gambling among its employees can lead to bad morale, lack of productivity, hard feelings and financial hardships. Therefore, gambling is prohibited on city property and will be a cause for discipline. This includes all competitions where money is wagered, such as cards, dice, lotteries, or sports gambling (football and basketball tournaments, animal fights, dog or horse races, etc.). Any employee who is guilty of selling or attempting to sell football cards or running betting pools will be subject to disciplinary action. Any employee found guilty of acting as a bookmaker will be subject to disciplinary action.

## **H. LOCKERS**

Locker rooms and lockers are provided as needed so employees may change their clothing before and after work, if desired. Employees are expected to furnish their own lock and/or key so they may have control over access to the locker; 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. Employees may be requested to open their lockers for periodic housekeeping, inspections, or other occasions when it is appropriate and/or necessary, as there is no expectation of privacy. Those who use the locker room 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.

## **I. SUGGESTIONS**

The city maintains an open mind about improving its operating procedures and encourages its employees to make suggestions toward this end. Suggestions are welcome on subjects such as safety and methods to save labor, money, energy, time, and material.

All suggestions should be submitted in writing, and management will be happy to discuss any suggestions with the author.

## **J. ACCEPTING GRATUITIES**

No employee shall accept any money, other considerations, or favors from anyone other than the city for performing an act that he/she would be required to expect to perform in the regular course of his/her duties. No employee shall accept, directly or indirectly, any gift, gratuity, or favor of any kind that might reasonably be interpreted as an attempt to influence his/her actions with respect to the city business.

## **K. BUSINESS INTEREST**

No department head or supervisor shall have any financial interest in the profits of any contract, service, or other work performed by the city. No department head or supervisor shall personally profit directly or indirectly from any contract, purchase, sale, or service between the city and any person or company. No department head or supervisor shall personally, or as an agent, provide any surety, bail, or bond required by law or subject to the approval by the Mayor and Board of Aldermen.

No city employee shall enter into a contract with the city or perform any work or function under any contract with the city if he/she has a direct or indirect financial interest in the contract, unless:

1. the contract is awarded through a process that complies with the city's purchasing requirements; or
2. the City Council waives this section's requirements after making a formal finding that it is in the best financial interest of the city to do so after full disclosure on the part of the city employee of

his/her direct or indirect financial interest in the contract, and the City Council's finding and waiver and the employee's full financial disclosure are recorded in the minutes of the deliberation in open session.

## **L. PERSONNEL RECORDS**

Personnel records for each employee are kept on file and maintained by the City Clerk or designee. Any change of address, telephone number, marital status, draft status, beneficiaries, number of dependents, or completed education/training should be turned in to the supervisor for inclusion in the personnel file.

The City Clerk also maintains the life insurance, vacation, pension and retirement, health insurance, and sick leave records for each employee. The personnel section will advise employees through their supervisor of their eligibility so that they may take full advantage of all the benefits available. All medical records shall be kept in a separate confidential file for each employee.

It is the responsibility of each employee to update personal information in his/her personnel file by notifying the City Clerk of any information changes. The city shall not be held liable when incorrect withholding, wrong beneficiaries, or loss of employee benefits result from the failure of any employee to keep personnel records current.

### **COLLECTION, RETENTION, AND USE OF PERSONAL INFORMATION**

The city will strictly follow the requirements of equal employment opportunity laws regarding information collection concerning race, color, national origin, gender, religion, age, and disabilities. With these restrictions in mind, the city will gather such information about job applicants or employees as determined by the City Clerk and the laws governing such records.

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

1. The City Clerk may maintain a complete (master) file of each employee's records, which will contain necessary information, as determined by the City Clerk or designee.
2. Each department head may maintain a file on each employee in his/her charge, including performance evaluations, attendance records, notes, memos, letters, or other information related to an employee's salary history.
3. Payroll data may be kept separately from the personnel file and the departmental file, although both may include information about an employee's salary history.
4. Supervisors may keep separate files on their subordinates. Only information regarding employee performance may be kept in these files. A supervisor's files should be transferred to the City Clerk's office when an employee leaves the city.
5. Employee information may be collected from employees whenever possible, but the city may use outside sources for other information.

### **EMPLOYEES' ACCESS TO PERSONNEL RECORDS AND MANAGEMENT FILES**

Under normal circumstances, employees may have access to 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.

## **Employees' Access Procedures**

When employees wish to see their personnel files, they must first make an oral or written request to their immediate supervisor. Employees may contact the City Clerk for an appointment to view the file.

Employees must review the file in the presence of an appropriate representative. Employees may take notes and may request a copy of any of the file's contents on duplicating equipment subject to the city's policy on copy charges. Any question about the information's accuracy must be referred to the City Manager. Employees may submit a note of disagreement to the City Manager who will provide a form on which disagreements may be expressed.

## **DISCLOSURE OF EMPLOYEE RECORDS AND INFORMATION**

The content of employee personnel files is open to public inspection; however, some personal information has been deemed confidential under state and federal law. Any request for information from an employee's personnel file must be immediately referred to the City Clerk. Only the City Clerk or City Manager are authorized to disclose information about employees to outside inquirers. Before a file is made available for viewing, a copy shall be made, and the designated staff member shall redact any confidential information.

Police Department applicants and employment records may be exempt from public access pursuant to state law. All requests for applicant and employment records shall be reviewed by the City Manager and/or Chief of Police on a case-by-case basis. When a request is for a professional, business, or official purpose, and includes a request for personal information as defined by T.C.A. § 10-7-504(g), the Chief of Police (or custodian of files) must notify the officer prior to disclosure. The officer must be given a reasonable opportunity to be heard to oppose the release of the information. If the City Manager or Chief of Police decides not to disclose personal information, the requester must be notified within two (2) business days from the request and the files shall be released with personal information redacted.

Confidential information shall only be disclosed under the following circumstances:

1. properly identified and duly authorized law enforcement officials without a warrant when investigating allegations of illegal conduct by employees; and
2. legally issued summonses or judicial orders, including subpoenas and search warrants; and
3. others as legally allowed by state and federal law.

The City Clerk or designee will restrict disclosing personal information to prospective employers as much as possible. In most cases, such disclosures will be limited to information about the dates of employment, title or position, job location, and salary or as permitted by law.

## **M. ETHICS POLICY**

As of July 1, 2007, all Tennessee municipalities are required to adopt a Code of Ethics.

### **SECTION I – APPLICABILITY**

This chapter is the code of ethics for personnel of the municipality. It applies to all full-time and part-time, elected or appointed officials and employees, whether compensated or not, including those of any separate board, commission, committee, authority, corporation, or other instrumentality appointed or created by the municipality. The words "municipal" and "municipality" include these separate entities.

### **SECTION II – DEFINITION OF "PERSONAL INTEREST"**

- (1) For purposes of Sections 3 and 4, "personal interest" means: (a) any financial, ownership, or employment interest in the subject of a vote by a municipal board not otherwise regulated by state statutes on conflicts of interests; or (b) any financial, ownership, or employment interest of the official's or employee's spouse, parent(s), stepparent(s), grandparent(s), sibling(s), child(ren), or stepchild(ren).

- (2) The words “employment interest” includes a situation in which an official or employee or a designated family member is negotiating possible employment with a person or organization that is the subject of the vote or that is to be regulated or supervised.
- (3) In any situation in which a personal interest is also a conflict of interest under state law, the provisions of the state law take precedence over the provisions of this chapter.

### **SECTION III – DISCLOSURE OF PERSONAL INTEREST BY OFFICIAL WITH VOTE**

An official with the responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before the vote and so it appears in the minutes, any personal interest that affects or would lead a reasonable person to infer that it affects the official's vote on the measure. In addition, the official may recuse himself from voting on the measure.

### **SECTION IV – DISCLOSURE OF PERSONAL INTEREST IN NON-VOTING MATTERS**

An official or employee who must exercise discretion relative to any matter, other than casting a vote, and who has a personal interest in the matter that affects or that would lead a reasonable person to infer that it affects the exercise of the discretion shall disclose, before the exercise of the discretion when possible, the interest on a form provided by and filed with the recorder. In addition, the official or employee may, to the extent allowed by law, charter, ordinance, or policy, recuse himself from the exercise of discretion in the matter.

### **SECTION V – ACCEPTANCE OF GRATUITIES, ETC**

An official or employee may not accept, directly or indirectly, any money, gift, gratuity, or other consideration or favor of any kind from anyone other than the municipality:

1. For the performance of an act, or refraining from performance of an act, that he would be expected to perform, or refrain from performing, in the regular course of his duties; or 2. That might reasonably be interpreted as an attempt to influence his action, or reward him for past action, in executing municipal business.

### **SECTION VI – USE OF INFORMATION**

- (1) An official or employee may not disclose any information obtained in his official capacity or position of employment that is made confidential under state or federal law except as authorized by law.
- (2) An official or employee may not use or disclose information obtained in his official capacity or position of employment with the intent to result in financial gain for himself or any other person or entity.

### **SECTION VII – USE OF POSITION OR AUTHORITY**

- (1) An official or employee may not use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to himself.
- (2) An official or employee may not use or attempt to use his position to secure any privilege or exemption for him or others that are not authorized by this charter, general law, or ordinance or policy of the municipality.

### **SECTION VIII – OUTSIDE EMPLOYMENT**

An official or employee may not accept or continue any outside employment if the work unreasonably inhibits the performance of any affirmative duty of the municipal position or conflicts with any provision of the municipality's charter or any ordinance or policy.

### **SECTION IX – ETHICS COMPLAINTS**

- (1) The city attorney is designated as the ethics officer of the municipality. Upon the written request of an official or employee potentially affected by a provision of this chapter, the city attorney may render an oral or written advisory ethics opinion based upon this chapter and other applicable law.



(2)(a) Except as otherwise provided in this subsection, the city attorney shall investigate any credible complaint against an appointed official or employee charging any violation of this chapter, or may undertake an investigation on his own initiative when he acquires information indicating a possible violation and make recommendations for action to end or seek retribution for any activity that, in the attorney's judgment, constitutes a violation of this code of ethics. (b) The city attorney may request that the governing body hire another attorney, individual, or entity to act as ethics officer when he has or will have a conflict of interest in a particular matter. (c) When a complaint of a violation of any provision of this chapter is lodged against a member of the municipality's governing body, the governing body shall either determine that the complaint has merit, determine that the complaint does not have merit, or determine that the complaint has sufficient merit to warrant further investigation. If the governing body determines that a complaint warrants further investigation, it shall authorize an investigation by the city attorney or another individual or entity chosen by the governing body.

(3) The interpretation that a reasonable person in the circumstances would apply shall be used in interpreting and enforcing this code of ethics.

(4) When a violation of this code of ethics also constitutes a violation of a personnel policy, rule, or regulation or a civil service policy, rule, or regulation, the violation shall be dealt with as a violation of the personnel or civil service provisions rather than as a violation of this code of ethics.

## **SECTION X – VIOLATIONS**

An elected official or appointed member of a separate municipal board, commission, committee, authority, corporation, or instrumentality who violates any provision of this chapter is subject to punishment as provided by the municipality's charter or other applicable law and in addition is subject to censure by the governing body. An appointed official or an employee who violates any provision of this chapter is subject to disciplinary action.

No employee shall be discharged or terminated solely for refusing to participate in, or for refusing to remain silent about, illegal activities (**T.C.A. § 50-1-304**).

## **N. COMPUTER USE AND MONITORING**

It is every employee's duty to use the city's computer resources and communication devices responsibly, professionally, ethically and lawfully. These policies are not intended to, and do not, grant users any contractual rights. The term "Computer Resources" refers to the city's computers, electronic equipment, and its entire computer network.

### **Computer Use Policy Overview**

The Computer Resources are the property of the city and should be used for legitimate business purposes. While personal use of city Computer Resources including Internet and electronic mail is not forbidden, it is discouraged. Personal use shall be minimal and shall not interfere with the performance of job duties and responsibilities. Users are permitted access to the Computer Resources to assist them in performing their jobs. Use of the Computer Resources is a privilege that may be restricted or revoked at any time. All information contained in the Computer Resources and all documents generated therefrom are for the exclusive use of the city in connection with the conduct of its business and are the sole property of the city.

### **Waiver of Privacy Rights**

Users expressly waive any right of privacy in anything they create, store, send or receive using the Computer Resources. Users consent to allowing the city to access and review all materials users create, store, send or receive using the Computer Resources.

### **Inappropriate or Unlawful Material**

Material that is, or could reasonably be regarded as, derogatory or discriminatory on the basis of race, sex, religion, national origin, age, or disability, or is fraudulent, harassing, embarrassing, sexually explicit, profane, obscene, intimidating, defamatory or otherwise unlawful, may not be sent, by e-mail or other forms of electronic communication (such as bulletin board systems, news groups and chat groups) or displayed on or stored in the

Computer Resources. Any such material received by electronic transmission from a source outside of the city should be deleted immediately.

### **Misuse of Software**

Without prior authorization and proper licensing, users may not do any of the following: a) copy software for use on their home computers; (b) provide copies of software to any third person; (c) install software or hardware on any Computer Resources; (d) download any software from the Internet or other online service to any Computer Resources; (e) modify, revise, transform, recast or adapt any software on any Computer Resources.

### **Compliance with Laws and Licenses**

In their use of Computer Resources, users must comply with all software licenses and copyrights and all state, federal and international laws governing intellectual property and online activities.

### **Communication of Trade Secrets**

Unless expressly authorized by the city, sending, transmitting or otherwise disseminating proprietary data, trade secrets or other confidential information of the city is strictly prohibited.

### **Use of Encryption Software**

Users may not install or use encryption software on any computers without first obtaining written permission from the city.

### **Monitoring Usage**

The city has the right, but not the duty, to monitor any and all aspects of the Computer Resources, including monitoring sites visited by employees on the Internet, monitoring chat groups and newsgroups, reviewing material downloaded or uploaded by users to the Internet, and reviewing e-mail sent and received by others.

### **Public Records**

All city correspondence in the form of electronic mail may be considered a public record and may be subject to public inspection under the Tennessee Public Records Law.

### **Social Media**

#### **SECTION 1: IN GENERAL**

This policy applies to every employee, whether regular part time, regular full time, currently employed by the city in any capacity who posts any material whether written, audio, video or otherwise on any website, blog or any other medium accessible via the internet.

For purposes of this policy social media is content created by individuals using accessible and scalable technologies through the internet. Examples of social media include but are not limited to: Facebook, blogs, RSS, YouTube, Second Life, Twitter, LinkedIn, Google Wave, discussion forums, and online collaborative information and publishing systems that are accessible to internal and external audiences (i.e. wikis, including Wikipedia).

Employees shall abide by the terms of use and rules and guidelines of each individual social media platform utilized. By posting on the city sites, the city is granted irrevocable, perpetual, non-exclusive license to use and distribute content for any purpose, commercial, advertising, or otherwise.

Employees who violate the terms of this policy are subject to discipline up to and including termination.

#### **SECTION 2: CITY OWNED OR CREATED SOCIAL MEDIA**

The city maintains an online presence. The provisions of Section 2 apply to employees posting content in an official capacity on the city-owned or created social media platform or on any other platform.

An employee may not characterize him or herself as representing the city, directly or indirectly, in any online posting unless pursuant to this policy or at the direction of a supervisor.

All city social media sites and platforms directly or indirectly representing to be an official statement of the city must be created pursuant to this policy and be approved by the City Manager.

The City Manager shall coordinate the upkeep of content on social media sites created pursuant to this policy.

Any city social media site is subject to the Tennessee's Public Records Act (T.C.A. § 10-7-101, *et seq.*) and no social media site shall be used to circumvent or otherwise violate this law. All lawful records requests for information contained on a social media site shall be directed to the City Manager and will be fulfilled by any employee whose assistance is necessitated.

Every social media site shall contain a clear and conspicuous statement referencing the aforementioned state laws. All official postings on a social media site shall be preserved, to the extent possible and allowable in each platform, in accordance with any applicable retention policy.

A social media site shall also contain a clear and conspicuous statement that the purpose of the site is to serve as a mechanism for communication between the city and its citizens/customers and that all postings are subject to review and deletion by the city. The following content is not allowed and will be immediately removed and may subject the poster to banishment from all city social media sites:

- a. Comments not topically related to the particular topic, idea or thread being commented upon;
- b. Profane language or content;
- c. Obscene images;
- d. Content that promotes, fosters, or perpetuates discrimination on the basis of race, color, religion, gender or gender identity, age, national origin, disability, military status, communication with an elected public official, free speech, refusing to participate in or remain silent about illegal activities exercising a statutory constitutional right or any right under clear public policy, political affiliation, genetic information or any other basis protected by law, creed, or status with regard to public assistance;
- e. Sexual content or links to sexual content;
- f. Solicitations of commerce;
- g. Illegal conduct or encouragement of such;
- h. Information that may tend to compromise the safety or security of the public or public systems;  
or
- i. Content that violates a legal ownership interest of any other party.

Administration of city's social media sites.

- a. The City Manager, or designee, will review, test, and technically approve social media tools and implementation for use by city staff.
- b. The City Manager will maintain a list of all city social media sites, including login and password information. Employees will inform the City Manager of any new social media sites.
- c. The city must be able to immediately edit or remove content from social media sites.

Accounts and pages should, where possible, feature the official city name and logo. The city's social media platforms are also encouraged to use official City Graphic Identity Standards for color, logo, seal, type font, marks, etc.

Rights and permissions must be secured before posting, sharing or distributing copyrighted materials, including but not limited to music, art, copyrighted photographs or texts, portions of copyrighted video, or information considered proprietary by a city employee, vendor, affiliate or contractor. Secure written permission prior to using/incorporating any copyrighted or proprietary materials except when such material is covered under Fair Use provisions.

In most cases, a release must be obtained to post, share or distribute images of non-employees whose images are identifiable.

An employee must not post content that might be embarrassing to an individual or that could be construed as placing a customer, employee or other individual in a negative or false light.

An employee must not post content that might cause someone to believe that his name, image, likeness or other identifying aspect of his identity is being used, without permission, for commercial purposes.

Commercial use of the city's social media is strictly prohibited. Employees should not post any content to a city's social media platform for their financial gain or for the financial gain of any other person or entity.

Use of the city's social media to support or oppose individual political candidates, political parties, or any ballot measure is strictly prohibited, except where authorized by council.

### **SECTION 3: NON-CITY SOCIAL MEDIA**

This section applies to city employees posting content to non-city created social media platforms in their personal capacity. Employees are prohibited from posting anything on the internet that could be construed as an act of unlawful harassment, a threat, or other evidence of discrimination. Employees should limit their personal internet activities to non-working hours, meal periods and/or rest breaks.

An employee may not characterize him or herself as representing the city, directly or indirectly, in any online posting unless pursuant to a written policy of the city or at the direction of a supervisor.

The simultaneous use of a city email address, job title, official city name, or logo in conjunction of a posting shall be evidence of an attempt to represent the city in an official capacity. Other communications leading a reasonable viewer to conclude that a posting was made in an official capacity shall also be deemed evidence to represent the city in an official capacity.

An exception exists for employees engaging in protected concerted activity. The rule does not apply to "discussions and activities involving employee wages, hours and working conditions."

Any postings on non-city social media made in an official capacity may be subject to the Tennessee Open Records Act.

A city employee posting on a social media site shall take reasonable care not to disclose any confidential information in any posting.

When posting in a personal capacity, an employee should take reasonable care to distinguish that his content is a personal expression and not that of the agency.

### **O. MISUSE OF CITY PROPERTY**

Misuse of city property violates the values of integrity, respect, and continuous improvement of the city. Misuse of property may include, but is not limited to, misusing or taking broad property or the property of others without permission, or misusing or misappropriating funds, misuse of copyrighted material, vandalism, embezzlement, using city resources/positions, business cards/identification/security badges for unauthorized business or personal reasons or personal gain.

All city vehicles and equipment are for official use only, unless otherwise authorized. No other person other than a city employee may operate a city vehicle or piece of machinery. Drivers and operators must have a valid Tennessee driver's license and be approved by the department head, City Manager, or the City Council.

## **SECTION XII – SEPARATIONS AND DISCIPLINARY ACTIONS**

### **A. TYPES OF SEPARATIONS**

All separations of employees from positions with the city shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, layoff, disability, death, retirement, 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 transferred to the department. Any amount due because of shortages shall be withheld from the employee's final compensation. Reimbursement cannot result in the employee being paid less than the federal minimum wage.

### **B. RESIGNATION**

In the event an employee decides to leave the city's employ, appropriate notice shall be given to his/her supervisor so that arrangements for a replacement can be made. In such a case, employees will be expected to return any/or all city equipment assigned. An unauthorized absence from work for a period of 3 consecutive working days may be considered by the department head as a resignation.

If a former employee returns to city employment, his/her status of seniority, pay, leave, etc., will be the same as any new employee beginning work for the first time unless the period of separation is less than one year.

### **C. LAYOFF**

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

The duties performed by a laid-off employee may be assigned to other city employees who hold positions in the appropriate class. Temporary employees shall be laid off before probationary or regular employees. In the event that a reduction-in-force becomes necessary, consideration shall be given to organizational needs, the quality of each employee's service, and seniority in determining retention.

### **D. RETIREMENT**

Retirement is defined as voluntary withdrawal from city employment by an employee eligible to receive retirement benefits under Social Security, or the Tennessee Consolidated Retirement System. Retirement benefits are based upon the regulations of the retirement system in which the employee is enrolled and any other applicable provisions that may be in effect at the time of that employee's retirement. Whenever an employee meets the conditions set forth in the retirement system's regulations, he/she may elect to retire and receive all benefits earned under the appropriate schedule.

### **E. DEATH**

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

### **F. DISMISSAL**

The City Manager may dismiss an employee for cause that is for the good of the city service. The city council retains the right to review and overrule the discipline or firing of department heads and staff.

If the employee requests a meeting on the proposed action, the City Manager shall promptly set a date and time for the meeting and shall carefully consider all evidence presented before making a decision. The decision of the City Manager shall be final.

## **G. DISCIPLINARY ACTION**

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

1. oral reprimand,
2. written reprimand,
3. suspension,
4. demotion, and
5. dismissal

The employee will be furnished a notice from the employee's supervisor or department head containing the nature of the action, and the reasons, therefore. The employee may be retained in employed status, suspended with or without pay, demoted or dismissed, as deemed in the best interest of the city by the City Manager, for violation of these Human Resources Regulations, misconduct as defined herein or for any reason as defined.

### **ORAL REPRIMAND**

Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the supervisor should inform the employee promptly and specifically of such lapses and should give him/her counsel and assistance. If justified, a reasonable period of time for improvement may be allowed before initiating disciplinary actions. The supervisor may place a memo in the employee's file stating the date of the oral reprimand, what was said to the employee, and the employee's response.

### **WRITTEN REPRIMAND**

In situations where an oral warning has not resulted in the expected improvement or when more severe initial action is warranted, a written reprimand may be delivered to the employee, and a copy placed in the employee's human resources file. The supervisor administering the reprimand should advise the employee that the action is a written reprimand and emphasize the seriousness of the problem; cite previous corrective actions and/or informal discussions relating to the offense; identify the problem and/or explain the offense; inform the employee of the consequences of continued undesirable behavior; detail corrective actions and identify dates by which the correction actions shall be taken.

At the conclusion of a conference with the employee, a signed copy of the written reprimand will be given to the employee and a copy placed in the employee's human resources file. It is recommended that the affected employee sign the written reprimand to indicate that he/she has seen the document and to acknowledge receipt of the employee's copy. Should the employee refuse to sign the written reprimand, the supervisor should obtain a witness to sign and date the form and so indicate the employee's refusal to sign. An employee who disagrees with the written reprimand may place a written statement of his/her objection in the human resources file.

### **SUSPENSION**

An employee may be suspended with or without pay by his/her department head with the approval of the City Manager. A written statement of the reason for suspension shall be submitted to the employee affected at least 24 hours prior to the effective date of suspension. Under certain circumstances, an employee may be suspended without 24-hour notice, if in the best interest of the city. The decision to suspend without notice must be made by the City Manager. During the advance-notice period, the employee may be retained in active-duty status, placed on leave, or suspended with or without pay at the discretion of the City Manager.

### **DISCIPLINARY DEMOTION**

A demotion of an employee is a form of disciplinary action by a department head for a serious offense and/or multiple violations of a less serious nature where discharge is not warranted upon approval by the City Manager. A copy of the demotion notification and related documentation shall be forwarded to the City Clerk

for inclusion in the official human resources file of the employee. The demotion notification and related documentation shall remain in the employee's human resources file.

### **TEMPORARY REASSIGNMENT**

An employee, based on business need, may be reassigned temporarily pending the outcome of an investigation upon approval of the City Manager.

### **DISMISSAL**

The City Manager may dismiss an employee for cause that is for the good of the city service. Reasons for dismissal may include, **BUT ARE NOT LIMITED TO:**

1. misconduct;
2. negligence;
3. incompetency or inefficiency in performing duties;
4. conviction of a criminal offense or of a malfeasance involving moral turpitude;
5. violating any lawful and reasonable regulation, order, or direction made or given by a superior, or insubordination that constitutes a serious breach of discipline;
6. being intoxicated, drinking any intoxicating beverages, or being under the influence of a drug or narcotic while on duty;
7. theft, destruction, carelessness, or negligence of city property;
8. disgraceful personal conduct or language toward the public, fellow officers, or employees;
9. unauthorized absences or abuse of leave privileges;
10. incapacity to perform the essential functions of a job because of a permanent or chronic physical or mental defect that cannot be reasonably accommodated;
11. accepting any valuable consideration that was given with the expectation of influencing the employee in performing his/her duties;
12. falsifying records or using official position for personal advantage;
13. loss of an employee's driver's license and driving privileges by due process of law when the employee's position makes operating a motor vehicle necessary in performing his/her duties; or
14. violating any of the provisions of the charter, human resources ordinances, or these rules

The employee shall be furnished an advance written notice containing the nature of the proposed action, the reasons therefore, and the right to a pre-termination meeting to discuss the charges orally or in writing before the City Manager. When possible, the notice shall be furnished at least one calendar week prior to the proposed effective date of the action. During this period, the employee may be retained on duty status, placed on leave, or suspended with or without pay at the discretion of the City Manager. If the employee fails to respond to the advance notice, the proposed action shall be effective on the date specified with no need for further action. The City Council retains the right to review and overrule the discipline or firing of department heads and staff.

### **H. GRIEVANCE PROCEDURES**

A grievance is defined as an employee's feeling of dissatisfaction, and any differences, disagreements, or disputes arising between an employee and his/her supervisor and/or employer regarding some aspect of his/her employment, application or interpretation of regulations and policies, or some management decision affecting him/her. A grievance may be something real, alleged, or a misunderstanding concerning rules and regulations or an administrative order involving the employee's health, safety, physical facilities, equipment or material used, employee evaluation, promotion, transfer, layoff, recall, and any other related items. Such misunderstandings, complaints, points of view, and opinions will be considered a grievance, except in cases where they relate to human resources actions arising out of pay, suspension, and dismissal.

It is the city's desire to address grievances informally. Both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional grievances that will be resolved only after a formal appeal and a review. Employees who have a grievance may discuss it with their immediate supervisor, a higher-level supervisor, the department head, or the City Manager.

## **I. AMERICANS WITH DISABILITIES ACT (ADA)**

### **Purpose**

The purpose of this policy is to provide a policy in compliance with 42 U.S.C. 12101 et. seq.: The Americans with Disabilities Act (ADA) as amended. The city is committed to the fair and equal employment of individuals with disabilities under the ADA. It is the city's policy to provide reasonable accommodation to individuals with disabilities who are qualified for the job in question unless the accommodation would impose an undue hardship on the city. The city prohibits any harassment of, or discriminatory treatment of, employees on the basis of a disability or because an employee has requested reasonable accommodation.

In accordance with the ADA, reasonable accommodations will be provided to qualified individuals with disabilities to enable them to apply for jobs or promotions, to perform the essential functions of their jobs, or to enjoy the equal benefits and privileges of employment. This policy applies to all applicants for employment and all employees.

### **Eligibility**

The ADA policy applies to any qualified individual with a disability who can perform the essential functions of the job with, or without, reasonable accommodation.

### **Disability**

"Disability" refers to a physical or mental impairment that substantially limits one or more major life activities. A "qualified person with a disability" means an individual with a disability who possesses the requisite knowledge, skills, abilities, or other behavioral characteristics for the job in question, and who can perform the essential functions of the job with or without reasonable accommodation.

### **Reasonable Accommodation**

The city will seek to provide reasonable accommodation for a known disability or at the request of an individual with a disability. A "reasonable accommodation" is any change or adjustment to the job application process, work environment, work processes, or work policies that would make it possible for the individual with a disability to perform the essential functions of the job and does not place undue hardship on the city.

### **Essential Job Functions**

For each position, the job description typically will identify essential job functions. The City Manager and/or his/her designee generally will review job descriptions on a periodic basis to evaluate job functions designated as essential. An applicant's or employee's questions about a job's requirements should be directed to the City Manager.

### **Requesting a Reasonable Accommodation**

An applicant or employee with a disability is responsible for requesting an accommodation from the City Manager or his or her designee and engaging in an informal or formal interactive process to clarify what the applicant or employee needs and to identify possible accommodations. The city will inform the applicant or employee of his/her rights under the ADA and document the interactive process discussions. An applicant or employee may be required to provide documentation from an appropriate professional, including, but not limited to, a doctor or a rehabilitation counselor, concerning the applicant's disability and limitations. If an applicant or employee disagrees with the result of the medical examination, the applicant or employee may request a second examination performed and paid for by the applicant or employee. In the event of a disagreement in the two previous medical opinions, a third opinion may be obtained with both parties sharing the cost of the examination.

The applicant or employee should describe the problem created by a workplace barrier so that appropriate accommodation may be considered. Typically, the City Manager will work with the applicant or employee to identify possible reasonable accommodations and to assess the effectiveness of each in allowing the applicant or employee to complete the hiring process or perform the essential functions of the job.

Based on this interactive process, reasonable accommodation will be selected that is appropriate for both the city and the individual. While an individual's preference will be considered, the city is free to choose between equally effective accommodations with consideration toward expense and impact on the rest of the organization.

A request for reasonable accommodation may be denied if it would create an undue hardship for the city. The City Manager will provide notification in writing of denial based on undue hardship. Factors to be considered when determining whether an undue hardship exists include the cost of the accommodation, the organization's overall



financial resources, the financial resources of the particular facility or department at which the accommodation is to be made, the number of employees at the facility, the total number of employees of the organization, the disruption of the accommodation to efficient and effective delivery of services, the safety of the individual and others, and the type of operation.

### **Safety**

All employees are expected to comply with all safety procedures. The City of Harriman will not place qualified individuals with disabilities in positions in which they will pose a direct threat to the health or safety of others or themselves. A “direct threat” means a significant risk to the health or safety of oneself or others that cannot be eliminated by reasonable accommodation. The determination that an individual with a disability poses a direct threat typically will be made by the City Manager and will be based on factual, objective evidence. A written copy of the determination will be given to the applicant or employee so that he or she may submit additional information and/or challenge the determination that he or she poses a direct threat.

### **Confidentiality**

All information obtained concerning the medical condition or history of an applicant or employee will be treated as confidential information, maintained in separate medical files, and disclosed only as permitted by law.

### **Complaint Procedure**

It is the policy of the city to prohibit any harassment of, or discriminatory treatment of, applicants or employees on the basis of a disability for requesting reasonable accommodations. If an individual feels he or she has been subject to such treatment or has witnessed such treatment, the situation may be reported to any supervisory employee of the city, including the City Manager.

The city’s policy prohibits retaliation against an applicant or employee for exercising his or her rights under the ADA or applicable state fair employment laws. Any employee found to have engaged in retaliation against an applicant or employee for exercising his or her rights or for making a request for reasonable accommodation under this policy will be subject to disciplinary action up to and including discharge. If an applicant or employee feels he or she has been retaliated against, the situation may be reported to any supervisory employee of the city, or any of the following, City Manager or Human Resources Director.

### **Grievance**

It is the policy of the city to allow individuals who disagree with the determination of accommodation to file a grievance under the city grievance policy for consideration. In the case of grievances on ADA compliance or accommodations, the City Council must be involved in final determination of grievance outcome. The decision of the City Council is final and binding unless overturned or remanded by a court or administrative agency.

## **J. ANTI-RETALIATION POLICY**

The City of Harriman is committed to preventing retaliation and to maintaining a productive, safe, and healthy work environment for all employees, who are to be treated with courtesy and respect at all times.

Retaliation occurs when the city either acts indirectly through a manager, supervisor, administrator or directly fires an employee or takes any other type of adverse action against an employee for engaging in protected activity. An adverse action is an action which would dissuade a reasonable employee from raising a concern about a possible violation or engaging in other related protected activity. Protected activities can include, but are not limited to:

- Whistleblowing on unlawful activities,
- Reporting violations to administrative agencies,
- Exercising free speech, and
- Speaking to elected officials.

Employees are expected to maintain a productive work environment free from retaliation for an employee engaging in any form of protected activity.

## **Making Complaints**

An employee who feels he/she is subjected to retaliation should immediately contact a person (listed below) with whom the employee feels the most comfortable. Any number of individuals may be chosen. The object is to give several options:

1. The employee's immediate supervisor,
2. The department head
3. the city manager.

Employees have the right to circumvent the employee chain-of-command when selecting the person to complain to about retaliation. The employee should be prepared to provide the following information:

1. his/her name, department, and position title;
2. the name of the person or people allegedly committing the retaliation, including their title(s), if known;
3. the specific nature of the retaliation, how long it has gone on, any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee as a result of the engaging in protected activity;
4. witnesses to the retaliation; and
5. whether the employee has previously reported the retaliation and, if so, when and to whom.

## **Employee Obligation**

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

Disciplinary action may be taken against an employee who fails to report instances of retaliation, or who fails or refuses to cooperate in the investigation of a complaint, or who files a complaint in bad faith. Employees are prohibited from interfering or attempting to interfere with any departmental investigation. False allegations will be dealt with on a case-by-case basis, and depending on the outcome, may include disciplinary action up to and including termination of employment.

## **Reporting and Investigating Retaliation Complaints**

The City Manager is the office the city designates as the investigator of retaliation complaints against employees. In the event the retaliation complaint is against the City Manager, the investigator may be independent outside counsel appointed by the Mayor or provided through the employment practices liability insurer.

## **K. PUMP ACT – NURSING MOTHERS**

### **Break Time to Pump Breast Milk**

Covered employees have the right to take reasonable break time to express breast milk for their nursing child. For one year after the child's birth, city employees may take reasonable break time "each time such employee has a need to express the milk." The city will not deny a covered employee a needed break to pump. The frequency and duration of breaks needed to express milk may vary depending on factors related to the nursing employee and the child. Factors such as the location of the space and the steps reasonably necessary to express breast milk, such as pump setup, may also affect the duration of time an employee will need to express milk and will be considered by the city. Employees who telework are eligible to take pump breaks under the FLSA on the same basis as other employees.

### **Private Space to Pump Breast Milk**

The city will provide covered employees with "a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk." Under the FLSA, a bathroom, even if private, is not a permissible location for the employer to provide for pumping breast milk.

The location provided will be functional as a space for expressing breast milk. If the space is not dedicated to the nursing employee's use, it will be made available when needed by the employee. A space temporarily created or converted into a space for expressing breast milk or made available when needed by the nursing employee is sufficient provided that the space is shielded from view and free from any intrusion from co-workers and the public.

#### **L. TENNESSEE PREGNANT WORKERS FAIRNESS ACT**

As required by the federal Pregnant Workers Fairness Act (PWFA), the city will provide reasonable accommodations to employees and applicants with limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause undue hardship to the city's operations.

An employee or applicant may request an accommodation due to pregnancy, childbirth, or a related medical condition by submitting the request in writing to the City Manager. The accommodation request should include an explanation of the pregnancy-related limitations, the accommodation needed and any alternative accommodation(s) that might be reasonable. Depending on the nature of the accommodation, the individual may be requested to submit a statement from a health care provider substantiating the need for the accommodation.

Upon receipt of a request for accommodation, the City Manager will contact the employee or applicant to discuss the request and determine if an accommodation is reasonable and can be provided without significant difficulty or expense, i.e., undue hardship.

While the reasonableness of each accommodation request will be individually assessed, possible accommodations include allowing the individual to:

- Sit while working.
- Drink water during the workday.
- Receive closer-in parking.
- Have flexible hours.
- Receive appropriately sized uniforms and safety apparel.
- Receive additional break time to use the bathroom, eat and rest.
- Take time off to recover from childbirth.
- Be excused from strenuous activities and/or activities that involve exposure to compounds deemed unsafe during pregnancy.

An employee may request paid or unpaid leave as a reasonable accommodation under this policy; however, the city will not require an employee to take time off if another reasonable accommodation can be provided that will allow the employee to continue to work.

The city prohibits any retaliation, harassment, or adverse action due to an individual's request for accommodation under this policy or for reporting or participating in an investigation of unlawful discrimination under this policy.

**ACKNOWLEDGEMENT OF RECEIPT**

**City of Harriman Human Resources Regulations, Revision Date: January 3, 2017**

This is to acknowledge that I have received a copy of the City of Harriman Human Resources Regulations and understand that it outlines certain city policies, procedures and benefits as may exist at the time of publication.

I understand that it is my responsibility to familiarize myself with all information within the Human Resources Regulations.

I understand that the Human Resources Regulations do NOT constitute a contract of employment; rather it is merely a statement of policies and procedures. I understand that the contents of the Human Resources Regulations do not confer any rights on or promises to me or guarantee my employment for any period of time.

I understand that the city can alter, eliminate, or otherwise change any policy, information, or benefit described in the Human Resources Regulation without notice, at any time and it is my responsibility to review the manual periodically to observe any recent changes.

I understand that nothing in the Human Resources Regulations or any summary brochure or employee handbook should be deemed to be a promise by the city to provide any benefit. Rather, the city reserves the right to alter or eliminate any benefit, without notice, at any time.

I understand that the Human Resources Regulations replaces (supersedes) any and all prior city policies and any and all prior city Human Resources Regulations, employee handbooks or manuals, and any information contained in any such prior policy, handbook, or manual is no longer in effect.

I understand that the Human Resources Regulations are the property of the city and are to be returned to the city when employment with the city ceases.

I understand that if I fail to return City equipment, property, or uniforms upon separation from employment that the city can deduct the cost of such from my final pay as long as my final pay is not reduced to below minimum wage.

\_\_\_\_\_  
Employee Signature Employee Printed Name

\_\_\_\_\_  
Witness Signature Witness Printed Name

Format Received: \_\_\_\_\_ Paper \_\_\_\_\_ Electronic Date