

CITY OF MILAN, TENNESSEE

PERSONNEL POLICIES

November 12, 2024

## TABLE OF CONTENTS

I.	Introduction	1	
	A.	Personnel Policy Statement	1
	B.	Employment At Will; No Contract of Employment	1
	C.	Applicability of Policies	1
II.	Employment	2	
	A.	Applications	2
	B.	Physical Examinations	2
	C.	Minimum Age	2
	D.	Types of Employees	3
	E.	Performance Appraisal	3
	F.	Outside Employment	3
	G.	Work Day / Work Week	3
	H.	Attendance	3
	I.	Overtime Pay	4
	J.	Promotions, Demotions, Transfers	4
	K.	Resignation	4
	L.	Personal Appearance	4
III.	Benefits	5	
	A.	Holidays	5
	B.	Holiday Pay	5
	C.	Vacation Leave	5
	D.	Sick Leave	6
	E.	Family and Medical Leave	7
	F.	Military Leave	10
	G.	Jury Service Leave	11
	H.	Maternity Leave; Pregnancy; Breastfeeding	12
	I.	Funeral Service Leave	12
	J.	Retirement System	13
	K.	Health Insurance; Dental Insurance	13

L.	Life Insurance	13
M.	Workers' Compensation	13
IV.	Drug-Free Workplace and Substance Abuse Policy	14
A.	Purpose	14
B.	Defined Terms	14
C.	Specific Rules	14
D.	Violations	15
E.	Drugs Tested	15
F.	Types of Drug/Alcohol Testing To Be Performed	15
G.	Opportunity to Contest or Explain Test Results; Refusal to Submit To A Drug Or Alcohol Test	17
H.	Confidentiality	17
I.	Employee Assistance	18
J.	Obligation to Provide Notice of Conviction	18
K.	Conflict with Law; Amendment	18
V.	Sexual Harassment Policy	19
A.	General	19
B.	Prohibited Actions and Behaviors	19
C.	Sexual Harassment Complaints	19
D.	Reporting and Investigation Sexual Harassment Complaints	20
E.	Action on Complaints of Sexual Harassment	21
F.	Obligations of Employees	21
VI.	Harassment, Discrimination, and Abusive Conduct Policy	22
A.	Harassment or Discrimination	22
B.	Abusive Conduct	22
C.	Investigation	24
D.	Corrective Action	24
VII.	Other Personnel Policies	25
A.	Solicitation	25
B.	Telephones	25
C.	Firearms, Controlled Substances, Alcoholic Beverages	25

D.	Fighting, Horseplay, Damage to City Property	26
E.	Parking	26
F.	City Vehicles, Equipment, and Other Property	26
G.	Bulletin Boards	26
H.	Travel Reimbursement	27
I.	Political Activity	27
J.	Business Dealings	27
K.	Acceptance of Gratuities	27
L.	Use of Position	27
M.	Nepotism	27
N.	Social Media Policy	28
VIII.	Disciplinary Actions and Grievances	29
A.	Disciplinary Actions	29
B.	Grievances	32
IX.	Miscellaneous	33
A.	Replacement of Previous Personnel Policies	33
B.	Amendments	33
C.	Severability	33
D.	Conflict with Charter or Other Law	33

## SECTION I - INTRODUCTION

### A. PERSONNEL POLICY STATEMENT

It is the policy of the City of Milan to apply and foster a sound program of personnel management.

The information in this handbook should be helpful in familiarizing employees with the City of Milan's personnel policies. This handbook, however, cannot anticipate every situation or answer every question about employment. Neither this handbook nor any provisions in this handbook constitute a contract of employment or any other type of contract.

The City of Milan is an equal opportunity employer and will not discriminate in recruitment, interviews, appointment, training, promotion, retention, discipline, or any other aspect of employment. The City of Milan will not discriminate or permit discrimination against anyone because of race, religion, color, national origin, age, sex, disability, or because of any other reason prohibited by law.

It is the policy of the City of Milan to provide a work environment free from all forms of discrimination, harassment, and intimidation including, racial, religious, age-related or any other type of discrimination, harassment, or intimidation.

The City's personnel policies shall be automatically amended to conform to any changes in the law immediately upon such amendment(s). In the event of a conflict between the City's personnel policies and any applicable State or Federal law, the applicable law shall govern.

### B. EMPLOYMENT AT WILL; NO CONTRACT OF EMPLOYMENT

All employees of the City of Milan are employees at will and, as such, are free to resign at any time without reason. The City of Milan likewise retains the right to terminate an employee's employment at any time with or without reason or notice. Nothing contained in this manual or any other document provided to the employee is intended to be, nor should it be construed as, a property interest in employment with the City of Milan or guarantee that employment or any benefit will be continued for any specific term or period of time.

The provisions set forth in these personnel rules and regulations relating to employee conduct, discipline, and disciplinary procedures are for internal operating purposes only and do not confer any rights to employees regarding employment. The City of Milan reserves the right to change, revise, add, or delete these policies without notice, except as may otherwise be required by law.

### C. APPLICABILITY OF POLICIES

These policies shall apply to all employees of the City of Milan.

## SECTION II - EMPLOYMENT

### A. APPLICATIONS

The City of Milan shall make every effort to attract qualified applicants for various types of positions. The City shall prepare and publish a public notice of vacancies not filled by promotions, transfers, or demotions, at a regular site in City Hall, and the Mayor may designate other sites to post job openings.

The City of Milan is an equal opportunity employer. Consideration for employment and employment practices overall will be governed without regard to race, gender, national origin, age,<sup>1</sup> disability, political affiliation, or any factor prohibited by law.

All applications for employment are received at City Hall and given thorough consideration by the appropriate department head. Applicants must meet all state and federal minimum standards and requirements, such as with police and firefighters, where applicable.

Applicants may be subject to a pre-employment drug screening.

Applicants may be removed from consideration if:

1. The applicant declines an appointment when offered;
2. The applicant has an employment history of illegal use or abuse of controlled substances, or the excessive use of alcohol;
3. The applicant is found to have been convicted of a felony or a misdemeanor involving violence or dishonesty; or
4. The applicant has made a false statement of material fact on the application.

### B. PHYSICAL EXAMINATIONS

Any offer of employment may be contingent upon the candidate's successful completion of a physical examination by a physician designated by the City, at the City's expense. An applicant may be rejected for employment upon the report of such physician that the applicant is not physically capable of performing the essential functions of the position for which the applicant is being considered.

### C. MINIMUM AGE

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

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<sup>1</sup> Certain age limitations may be imposed by State law regarding police officers, firefighters, or other employees.

No person shall be appointed to the sworn personnel of the police department who is less than twenty-one (21) years of age. No person shall be appointed to the suppression personnel of the fire department who is less than eighteen (18) years of age.

D. TYPES OF EMPLOYEES

1. FULL-TIME EMPLOYEE AT WILL. A full-time employee at will works at least 40 hours per week and is entitled to benefits.
2. PART-TIME EMPLOYEE AT WILL. A part-time employee at will works less than 40 hours per week. Part-time employees are not eligible for vacation, holiday, insurance, sick leave, retirement, or other benefits other than workers' compensation benefits.
3. TEMPORARY EMPLOYEE AT WILL. An employee at will who works full-time or part-time, but whose employment is designated for a particular period of time not exceeding twelve (12) months per term of employment. Except workers' compensation benefits, temporary employees are not eligible for vacation, holiday, insurance, sick leave, retirement, or other benefits.

E. PERFORMANCE APPRAISAL

An employee's performance may be appraised and reviewed by the Employee's department head. Such appraisal will be discussed with the employee so the employee will know how the employee is progressing and what areas of improvement are needed.

F. OUTSIDE EMPLOYMENT

No full-time employee shall be gainfully employed elsewhere without the express permission of the applicable department head or the Mayor.

G. WORK DAY / WORK WEEK

A work period is the regular and recurring period of time during which compensated time is counted for purposes of determining overtime eligibility. Except for shift personnel of the fire and police departments, the work period for employees of the City is a workweek. Pursuant to the Fair Labor Standards Act ("FLSA"), a workweek is a regular and recurring period of 168 hours consisting of seven (7) consecutive 24-hour periods and begins at 12:00 a.m. on Sunday and ends at 12:00 a.m. on the following Sunday. Police and firefighters' schedules may vary consistent with the FLSA.

H. ATTENDANCE

Punctual and regular attendance is necessary for the efficient operation of the City. Employees late to or absent from work due for any reason must notify their supervisor as early as possible explaining the reason for the absence and an anticipated return to work date. Tardiness, absences,

or failure to timely notify the employee's supervisor of absences or tardiness may result in disciplinary action.

#### I. OVERTIME PAY

Employees required to work overtime shall be compensated in accordance with the FLSA at a rate of one and one-half (1.5) times the employee's regular pay rate. Compensatory leave may be granted in lieu of overtime pay if approved by the employee's department head and if such compensatory time complies with the FLSA. Administration of the overtime policy and accumulation of time shall also be in accordance with the FLSA.

The employee's department head must authorize all overtime work.

Except as otherwise set forth herein, department heads and any other employees qualifying as exempt pursuant to the FLSA are not eligible to receive overtime compensation. Overtime compensation may be necessary and will be allowed at a rate of 1.5 per hour for otherwise exempt employees required to be directly involved in handling emergencies, heavy workloads, or other issues during a natural or man-made disaster. Overtime will be allowed only to complete emergency work occurring from an event that is too large and overwhelms the department that is required to do the work to protect the health and safety of the citizens. Department heads and other employees who are otherwise exempt pursuant to the FLSA will receive overtime compensation upon approval by the Board of Mayor and Aldermen.

#### J. PROMOTIONS, DEMOTIONS, TRANSFERS

Department heads have the authority to recommend the promotion of employees within their respective departments and such promotions will become effective upon approval of the Mayor. However, it will not be necessary to obtain the Mayor's approval of a promotion if the department has a written promotion procedure which has been approved by the Mayor.

Department heads also have the authority to demote or transfer employees within their respective departments. When an employee is promoted, demoted, or transferred from one department to another, such action must be agreeable to both department heads involved and also approved by the Mayor.

#### K. RESIGNATION

The City requests at least two (2) weeks of advance notice to the employee's department head if an employee resigns from their employment with the City. An employee who resigns is expected to return any City property in the employee's possession or control. The fair market value of any unreturned City property may be deducted from the employee's pay.

#### L. PERSONAL APPEARANCE

All employees of the City of Milan are required to comply with dress, grooming, and personal cleanliness standards consistent with a positive and professional work environment.

During business hours, employees are expected to present a clean and neat appearance and to dress according to the requirements of their positions. Employees who appear for work inappropriately dressed will be sent home and directed to return to work in proper attire. Under such circumstances, employees will not be compensated for the time away from work.

### **SECTION III – BENEFITS**

The Board of Mayor and Alderman may adopt a Schedule of Benefits, which may be amended from time to time at the discretion of the Board of Mayor and Aldermen. The Schedule of Benefits approved by the Board of Mayor and Aldermen shall control the specific benefits afforded to eligible employees of the City of Milan.

#### **A. HOLIDAYS**

The City of Milan will observe the holidays as shown in the Schedule of Benefits approved by the Board of Mayor and Aldermen.

Work schedules within each City department vary. Accordingly, employees whose jobs involve emergency and other necessary operations of the City may not be off work on the aforementioned holidays. For example, personnel of the police and fire departments have their own procedures governing holiday leave/pay. Employees should consult their department heads regarding the holiday leave/pay guidelines for their particular department.

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

#### **B. HOLIDAY PAY**

When an employee is required to work on a holiday, the employee will be paid overtime compensation or provided compensatory leave. This policy does not apply to City employees, such as firemen and policemen, who are regularly scheduled to work on holidays.

#### **C. VACATION LEAVE**

The accrual of vacation leave for full-time employees is presented on the Schedule of Benefits. Vacations will be scheduled in advance for the mutual convenience of the employee and the City so that proper adjustments in the work schedules can be made.

Department heads who are preparing vacation schedules will give a choice of dates based on the seniority of the personnel within their department. No employee may begin annual vacation leave until their department head has approved the request. Annual vacation cannot be taken in less than one full day without approval of the employee's department head or the Mayor.

An employee resigning from their employment with the City will be paid their unused annual vacation leave on a regular pay period basis, but only if the employee gives at least a two (2) weeks notice of resignation.

Holidays falling within a vacation period are not to be counted as vacation days. No vacation leave accumulates during any period an employee is suspended without pay.

Service in the Tennessee National Guard or military reserves may be charged as vacation leave at the option of the employee.

#### D. SICK LEAVE

The accrual of sick leave is presented on the Schedule of Benefits.

Sick leave benefits will commence on the first day of such absence and shall continue for as long as sick leave credit remains.

Sick Leave up to the number of days accrued shall be approved for all eligible employees where absence from duty is due to:

1. The employee being incapacitated by sickness or non-job related injury, for medical, dental, or optical diagnosis and treatment;
2. The employee is exposed to a contagious disease, and has been certified by a qualified doctor's certificate, that the employee may jeopardize the health of others; or
3. Illness of immediate family (spouse and children under 18 residing in the same household).

To prevent abuse of sick leave, the department head may require a doctor's certificate or other satisfactory evidence that absences are properly chargeable as sick leave. Any absence in excess of one (1) workday may require a doctor's certificate to return to work if, in the opinion of the department head and/or the Mayor, such action is deemed appropriate.

Each day deducted from an employee's sick leave accumulation shall be for a regular workday and shall not include holidays and scheduled off days. No sick leave accumulates if an employee is suspended without pay.

After an employee has exhausted all sick leave, the employee may be placed on leave without pay for up to 12 weeks if eligible pursuant to the Family Medical Leave Act ("FMLA"). After exhaustion of all sick leave and applicable FMLA leave, the employee may be terminated.

Employees may not borrow against future sick leave. The Mayor may make exceptions to the sick leave policy due to unusual and/or extenuating circumstances.

## E. FAMILY AND MEDICAL LEAVE

### 1. Purpose

The purpose of this policy is to provide a family and medical leave policy in compliance with the Family and Medical Leave Act (“FMLA”).

### 2. Guidelines

The FMLA provides eligible employees with up to twelve (12) weeks per year of job-protected leave for certain family and medical reasons. It also requires that group health benefits be maintained during that leave.

For the purposes of this subsection, “eligible employee” means any employee who has been employed by the City for at least twelve (12) months and who has worked at least 1,250 hours during the twelve (12) months immediately preceding the date leave commences.

The total amount of FMLA leave may not exceed twelve (12) weeks in a twelve-month (12-month) period.

Employees may use accrued vacation and/or accrued sick leave benefits concurrently with FMLA leave. Vacation and sick leave will run concurrently with FMLA leave. Accordingly, if the combined total of vacation and sick leave does not extend to the full twelve (12) weeks, the balance of the twelve (12) weeks will be made up of unpaid leave as provided by the provisions of the FMLA.

During periods of FMLA leave without pay, an employee does not accrue any additional seniority or employment benefits other than continuation of health insurance coverage at the employee’s expense.

If two employees are married to each other and wish to take FMLA leave for the care of a new child or a sick parent, their aggregate leave is limited to twelve (12) weeks. For example, if the mother takes eight weeks leave to care for a child, the father would be entitled to up to four weeks of leave, for a total of twelve (12) weeks.

An eligible employee may take up to twelve (12) weeks of FMLA leave in a twelve-month (12-month) period 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 minor child for adoption or foster care;
3. To care for an immediate family member (spouse, child, or parent) with a serious health condition;
4. Medical leave when the employee is unable to work because of a serious health condition;

5. To care for an immediate family member (spouse, child, or parent) injured while on active military duty if that injury renders the service member unfit for military duty; or
6. To handle a qualifying exigency related to an employee's spouse or child being called to active military duty.

An eligible employee may take up to twelve (12) weeks of FMLA leave in a twelve-month (12-month) period for the birth of a child or the placement of an adopted or foster care child. The right to take leave applies equally to male and female employees who are eligible. FMLA leave for the purposes of caring for a newborn or a newly placed adopted or foster child must be taken before the end of the first twelve (12) months following the first date of absence.

An employee may take FMLA leave to care for the employee's spouse, child, or parent who has a serious health condition. An employee may also take FMLA leave to care for his or her spouse or parent who is unable to care for his or her own basic hygiene, nutritional needs, or safety. Examples include a parent or spouse whose daily living activities are impaired by such conditions as Alzheimer's disease, stroke, recovery from major surgery, or the final stages of terminal illness.

An eligible employee who is unable to perform the functions of his or her position because of a serious health condition may request up to twelve (12) weeks FMLA leave. The term "serious health condition" is intended to cover conditions or illnesses that affect an employee's health to the extent that he or she must be absent from work for treatment or recovery on a recurring basis or for more than a few days.

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 twenty-six (26) weeks leave under the FMLA in order 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.

Eligible family members may take up to twelve (12) weeks of unpaid leave to deal with family issues resulting from a spouse, child, or parent being called to active duty, including being notified of an impending call to active duty.

### 3. Right to Return to Work

On return from FMLA leave, 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, provided the employee is able to perform the essential functions of the position.

### 4. Notification and Scheduling

An eligible employee must provide the City at least 30 days advance notice of the need for FMLA 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 events, such as premature birth or sudden changes in a patient's condition that require altering scheduled medical treatment.

It is the City's responsibility to designate in writing leave as FMLA leave and to notify the employee. Neither the City nor an employee may retroactively claim that leave was FMLA leave.

## 5. Certification

The City reserves the right to verify an employee's request for FMLA leave. If an employee requests FMLA leave because of a serious health condition or to care for a family member with a serious health condition, the City requires the request be supported by certification from the health care provider of either the eligible employee or the family member, as appropriate. If the City has 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. That 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, also at the City's expense, from another provider and that opinion will be final and binding.

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 son, daughter, spouse, or parent and must include an estimate of the amount of time the employee is needed to care for the family member. Medical certifications will be treated as confidential information.

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 FMLA leave under this policy for their own care 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.

## 6. Maintenance of Health and COBRA Benefits During FMLA Leave

The City will maintain health insurance benefits, consistent with the Schedule of Benefits, during periods of FMLA leave without interruption. Any payment for health insurance premiums or other payroll deductible insurance policies must be paid by the employee or the benefits may not be continued.

Leave under this policy does not constitute a qualifying event that entitles an employee to health insurance coverage under the Consolidated Omnibus Budget Reconstruction Act (COBRA). However, the qualifying event triggering COBRA coverage may occur when it becomes clearly known that an employee will not be returning to work.

## 7. Intermittent Leave and Reduced Schedules

FMLA leave may be taken intermittently or schedules may be reduced when medically necessary as certified by a health care provider. Intermittent leave or reduced schedules may be taken only

with the City's approval. The schedule must be mutually agreed upon by the employee and the City.

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

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

#### 8. The twelve-month (12-month) FMLA Period

The twelve-month (12-month) period during which an employee is entitled to twelve (12) workweeks of FMLA leave is measured forward from the date the employee's first FMLA leave begins. An employee is entitled to twelve (12) weeks of leave during the twelve-month (12-month) period after the leave begins. The next twelve-month (12-month) period will begin the first time the employee requests FMLA leave after the completion of the previous twelve-month (12-month) period.

#### 9. Workers' Compensation while on FMLA Leave

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

#### 10. Denial of FMLA Leave

If an employee fails to give timely advance notice when the need for FMLA leave is foreseeable, the City may choose to 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 choose to delay continuation of FMLA leave until an employee submits the certificate. If the employee never produces the certification, the leave is not FMLA leave.

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

### F. MILITARY LEAVE

All employees of the City who are, or may become, members of any reserve component of the armed forces of the United States, including members of the Tennessee Army and Air National Guard, shall be entitled to military leave from their respective duties, without loss of time, rate of pay, any accrued vacation leave, or any other rights or benefits to which otherwise entitled, for all 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; provided that the employee while on such leave shall be paid wages or salary and shall accrue and receive employee benefits for a period, or periods, not exceeding twenty (20) working days in any one (1) calendar year.

The military leave herein provided shall be unaffected by date of employment or length of service and shall have no effect on other leaves provided by law, regulation, policy, or practice.

When an employee returns from active military duty after being on such duty for between one (1) and thirty (30) days, the employee shall report back to work by the beginning of the first regularly scheduled work after military duty. The employee must apply for reinstatement within fourteen (14) days after release from active military duty if the duty lasted between 31 and 180 days. If the active military duty lasted for more than 180 days, the employee must apply for reinstatement within ninety (90) days after release from active military duty. The employee will be reinstated to a position at least equivalent to his or her former position. His or her wage or salary will be the wage or salary provided for the position at the time of reinstatement or re-employment. If no position is available at the time of the employee's return, he or she will be reinstated into the first available position for which he or she is qualified. No then-current full-time employee will be terminated or laid off to allow for the reinstatement.

Military leave shall be granted when the employee presents the official order to his or her department head. Compensation for such leave will be paid pursuant to *Tennessee Code Annotated* § 8-33-109. It will be the employee's responsibility to arrange with the department head to attend monthly reserve or guard meetings on regular off-time, with pay applied to the annual two-week training period.

In the event any such duty or training exceeds twenty (20) days in a calendar year, then the employee may request in writing that such excess time be charged to the employee's accrued vacation leave or compensatory leave, if any, and the employee may, at the employee's discretion, use up to five (5) days of sick leave in lieu of vacation leave or compensatory leave. After the use of all vacation leave and compensatory leave, the employee will be on military leave without pay and considered inactive.

Employees ordered or enlisted to full-time military duty will be re-employed in accordance with the provisions of current state and federal law, including the Uniformed Services Employment and Re-employment Rights Act (USERRA) and *Tennessee Code Annotated* § 8-33-101 *et. seq.* If the employee is not qualified to perform the duties of such position by reasons of disability sustained during military leave, such employee shall be placed in such other available position, the duties of which the employee is qualified to perform.

#### G. JURY SERVICE LEAVE

Employees selected for jury service shall be excused from their assigned duties for the actual duration of the jury duty. In the event of release from jury duty during the employee's normal working hours, he shall be expected to return to his/her department. Employee will receive pay during jury service; however, any payment received from the court must be paid to the City.

## H. MATERNITY LEAVE; PREGNANCY; BREASTFEEDING

Pursuant to the Tennessee Maternity Leave Act, a female employee who has been employed full-time by the City for at least one year shall be granted maternity leave for a period not to exceed four (4) months for the purpose of adoption, pregnancy, childbirth, and nursing the infant. With regard to adoption, the four (4) month period shall begin at the time an employee receives custody of the child.

A female employee who gives the City at least three (3) months' advance notice (unless prevented from doing so because of emergency medical necessity) of her anticipated date of departure for maternity leave, length of maternity leave, and her intention to return to employment after maternity leave, shall be restored to her previous or a similar position with the same pay status, pay, length of service credit and seniority, as applicable, as of the date of her leave. However, if the employee's position is so unique that the City cannot replace the employee on a temporary basis, the City may be unable to return the employee to the previous position.

Sick leave may be granted for maternity purposes, otherwise, the employee will be granted a leave of absence without pay. Any leave without pay will count as FMLA leave.

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

Female employees will be provided with reasonable break time each day for the purposes of expressing breast milk for the employee's child for up to one year following the birth of the employee's child. The break time shall, if possible, run concurrently with any break time already provided to the employee; provided, however, any such employee may take reasonable break times each time such employee has a need to express milk. Such breaks shall be paid breaks if concurrent with regular breaks; provided, however, such breaks may otherwise be unpaid so long as the employee is completely relieved of duty during such breaks.

The City will provide the employee with a place, other than a bathroom, that is shielded from view and free from intrusion from co-workers and the public, which may be used by the employee to express breast milk. An employee who is breastfeeding her child and wishes to take advantage of these breaks upon returning from maternity leave must notify her department head so that reasonable accommodations can be made.

The City will provide reasonable accommodations to pregnant employees if the employee makes her department head aware of limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless any such accommodation will cause the City an undue hardship.

## I. FUNERAL SERVICE LEAVE

A full-time employee for the City may be absent and continue to be paid in case of death in the employee's family as set forth herein. The City may require a statement from the minister or funeral

director in charge of the funeral. A maximum of five (5) scheduled work days off with pay will be granted for death of a spouse, son, daughter, father, mother, step-father, step-mother, or step-child financially supported by an employee. A maximum of three (3) scheduled work days off with pay may be granted for death of an employee's brother, sister, son-in-law, daughter-in-law, mother-in-law, father-in-law, grandfather, grandmother, brother-in-law, sister-in-law, or grandchild. One (1) scheduled work day will be granted for death of grandfather-in-law, grandmother-in-law, aunt, uncle, great-grandmother or great-grandfather.

#### J. RETIREMENT SYSTEM

Full-time employees of the City are eligible for retirement benefits through the Tennessee Consolidated Retirement System or through Milan Public Utilities' retirement plan, as applicable. Participation in the retirement program is mandatory.

#### K. HEALTH INSURANCE; DENTAL INSURANCE

Except as may be otherwise provided in the Charter of the City of Milan, eligible employees of the City of Milan are provided health insurance through an insurer as set forth in the Schedule of Benefits approved by the Board of Mayor and Aldermen. For purposes of this Section, the term "eligible employees" means employees who are permitted to receive health insurance benefits by the terms of this Policy, and employees for whom the City is required to provide health insurance pursuant to applicable federal law. The City of Milan also provides dental insurance benefits to full-time employees through an insurer as set forth in the Schedule of Benefits. The Schedule of Benefits may be amended by the Board of Mayor and Aldermen including through its annual budget approval process. Employees not joining the City's plan must sign a statement indicating their refusal of insurance coverage.

Employees with 15 or more years of service who retire at or after age 62 but prior to age 65 shall remain eligible for the City's health insurance benefits (single or family coverage) pursuant to the Schedule of Benefits, as may be amended, until age 65. Should an employee with 15 or more years of service die after age 62 but prior to age 65, the City will continue to pay the City's share of the insurance cost being carried on the employee's spouse until the date the employee would have been age 65, provided the surviving spouse elects to continue coverage and the City's insurer allows it. Under no circumstances will the City provide health insurance benefits to a retired employee, or to a retired employee's spouse or family, after the retired employee's 65<sup>th</sup> birthday.

#### L. LIFE INSURANCE

Full-time employees are provided life insurance coverage through a private company pursuant to the Schedule of Benefits.

#### M. WORKERS' COMPENSATION

Employees are entitled to the benefits of the Tennessee Workers' Compensation Law for injuries that arise out of and in the course of their employment. The workers' compensation benefits shall be administered by the City's workers' compensation insurer.

Employees shall immediately report any injury that arose out of and in the course of their employment to their department head. Department heads shall notify the Human Resources Manager for the City, who shall then notify the City's workers' compensation insurer.

Employees shall continue to accrue sick leave and vacation leave at their regular rates while off work due to a work-related injury or illness. An employee who receives temporary total disability benefits pursuant to the Tennessee Workers' Compensation Law for more than 30 consecutive days may elect to use the employee's accrued sick leave or vacation leave to make up the difference between the temporary total disability benefits and the employee's average weekly wage.

Each department may have its own policy about accommodating light-duty or other restrictions imposed by an authorized treating physician while the employee is off work due to a work-related injury or illness. The employee must be released from the authorized treating physician prior to returning to regular duties.

#### **SECTION IV – DRUG-FREE WORKPLACE AND SUBSTANCE ABUSE POLICY**

##### **A. PURPOSE**

The City of Milan is committed to providing a safe work environment and to fostering the health and well-being of its employees. That commitment is jeopardized when any of our employees illegally use drugs at home or at work, comes to work under their influence, possesses, distributes or sells drugs in the workplace, or abuses alcohol on the job.

Everyone shares responsibility for maintaining a safe work environment, and co-workers should encourage anyone who has a drug problem to seek help. The ultimate goal of this policy is to balance respect for individual privacy with the need to keep a safe, productive, drug-free work environment. We strongly encourage those who use illegal drugs or abuse alcohol to seek help in overcoming their problem.

As part of our commitment to safeguard the wellbeing of our employees and to provide a safe environment for everyone, the City of Milan has established this Drug-Free Workplace and Substance Abuse Policy, is participating in the Tennessee Bureau of Workers' Compensation's Drug-Free Workplace Program, and has established the following provisions as part of this Policy.

##### **B. DEFINED TERMS**

Any words or phrases used in this Policy that are defined in *Tennessee Code Annotated* § 50-9-101 *et. seq.* or the Rules and Regulations of the Tennessee Department of Labor and Workforce Development, TENN.COMP.RULES&REGS. 0800-02-12-.01 *et. seq.*, shall have the same meaning as defined therein.

##### **C. SPECIFIC RULES**

1. Employees shall not use, possess, sell, trade, offer for sale, or offer to buy illegal drugs or otherwise engage in the illegal use of drugs on or off the job.
2. Employees shall not report to work, be at work, or engage in work under the influence of or while possessing in his or her body, blood, or urine, illegal drugs in any detectable amount.
3. Employees shall not report to work, be at work, or to engage in work under the influence of or impaired by alcohol.
4. Employees shall not use prescription drugs illegally, i.e., to use prescription drugs that have not been legally obtained or in a manner, amount, or for a purpose other than as prescribed. However, nothing in this policy precludes the appropriate use of legally prescribed medications. While the City understands that employees and applicants under a physician's care may be required to use prescription drugs, the illegal use of prescribed medications will be dealt with in the same manner as the abuse of illegal substances. An employee or job applicant may confidentially report the use of prescription or nonprescription medications to a medical review officer, both before and after a drug/alcohol test, by contacting the medical review officer directly.

#### D. VIOLATIONS

A violation of this Policy subjects an employee to disciplinary action up to and including termination.

#### E. DRUGS TESTED

As a participating employer in the Tennessee Drug-Free Workplace Program, the City is required to test for the following drugs:

1. Marijuana metabolites
2. Cocaine metabolites
3. Amphetamines
4. Opiate metabolites
5. Phencyclidine (PCP)

These drugs come in many different forms and have various "street names."

The City has chosen to expand its drug testing to include the following drug: alcohol.

An employee whose normal faculties are impaired due to alcoholic beverages, or whose blood alcohol level tests .08% by weight for non-safety sensitive positions, or .04% for safety sensitive positions, while on duty shall be considered a violation of this Policy.

#### F. TYPES OF DRUG/ALCOHOL TESTING TO BE PERFORMED

It shall be a condition of employment for all employees to submit to substance abuse testing under the following circumstances:

1. Pre-Employment/Job Applicant Testing

All job applicants who have been offered employment must undergo testing for substance abuse as a condition of employment. Any applicant with a confirmed positive test result may be denied employment.

Notices will also be placed on vacancy announcements for positions which require drug or alcohol testing. Applicants will be required to submit to a urinalysis test at a laboratory chosen by the City. If the physician, official, or lab personnel has reasonable suspicion to believe the applicant has tampered with the specimen, the applicant will not be considered for the position.

This City will not discriminate against applicants for employment because of a past history of drug or alcohol abuse. It is the current illegal use of drugs and/or abuse of alcohol, preventing employees from performing their jobs properly, that the City will not tolerate.

2. Reasonable Suspicion Testing

“Reasonable suspicion” is based on a belief that an employee is using or has used drugs or alcohol in violation of this Policy, and is based on specific, objective, and articulable facts, and reasonable inferences drawn from those facts in light of experience. Among other things, such facts and inferences may be based upon, without limitation, the following:

- A. Observable phenomena while at work such as direct observation of substance abuse or of the physical symptoms or manifestations of being impaired due to substance abuse;
- B. Abnormal conduct or erratic behavior while at work, or a significant deterioration in work performance;
- C. A report of substance abuse provided by a reliable and credible source;
- D. Evidence that an individual has tampered with any substance abuse test;
- E. Information that an employee has caused or contributed to an accident while at work;
- F. Evidence that an employee has used, possessed, sold, solicited, or transferred drugs while working or while on the City’s premises or while operating the City’s vehicles, machinery, or equipment; or
- G. Involvement in an accident which results in an injury to another individual or in property damage exceeding Five Thousand Dollars (\$5,000.00), or such minimum amount as set by United States Department of Transportation Guidelines, if less.

3. Random Testing

Employees are subject to random drug and/or alcohol testing as may be required by applicable law including, without limitation, federal regulations imposed by the Federal Motor Carrier Safety Administration.

#### 4. Post-accident

All employees must submit to a test after a work-related accident which results in an injury to the employee, at the time the injury is reported. Emergency medical care shall not be withheld or delayed for collection of drug and/or alcohol test specimens.

#### 5. Routine fitness-for-duty drug or alcohol testing

Employees must submit to a drug or alcohol test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination where the examinations are required by law, regulation, are part of the City's established policy, or one that is scheduled routinely for all members of an employment classification group.

#### 6. Follow-Up To A Positive Test

If an employee tests positive and such employee is not terminated, for at least once per year for a two (2)-year period following a positive drug or alcohol test, employees must submit to a follow-up drug test, alcohol test, or both, as appropriate. In cases where an employee voluntarily entered treatment not based on an employer-administered drug or alcohol test, the follow-up test is not required.

### G. OPPORTUNITY TO CONTEST OR EXPLAIN TEST RESULTS; REFUSAL TO SUBMIT TO A DRUG OR ALCOHOL TEST

Employees and job applicants who have a positive confirmed drug or alcohol test result may explain or contest the result to the medical review officer within five (5) working days after receiving written notification of the test result from the medical review officer. If an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the City. A person may contest the drug test result pursuant to rules adopted by the Drug-Free Workplace Program of the Tennessee Bureau of Workers' Compensation.

Failure to submit to a required substance abuse test shall be considered misconduct and shall subject the employee to discipline including termination and the potential forfeiture of workers' compensation benefits.

### H. CONFIDENTIALITY

The confidentiality of any information received by the City through operation of this Policy shall be maintained as required by the rules adopted by the Drug-Free Workplace Program of the Tennessee Bureau of Workers' Compensation.

## I. EMPLOYEE ASSISTANCE

The City offers a helping hand to those who need it while sending a clear message that the illegal use of drugs and the abuse of alcohol are incompatible with employment. The City offers an Employee Assistance Program (“EAP”) for the benefit of employees and their dependents. The EAP provides confidential assessment, referral, and short-term counseling for employees and their dependents who need or request it. Confidentiality is assured. No information regarding the nature of the personal problem will be made available to supervisors, nor will it be included in an employee’s permanent personnel file.

It is the responsibility of an employee to seek assistance from the EAP before alcohol or drug problems lead to disciplinary actions. Once a violation of this policy occurs, subsequently seeking treatment through the EAP on a voluntary basis will not necessarily lessen disciplinary action and may, in fact, have no bearing on the determination of appropriate disciplinary action.

The City’s EAP will provide appropriate assessment, evaluation, counseling, and/or referral for treatment of drug and/or alcohol abuse. Employees may be granted leave with a conditional return to work, contingent upon successful completion of the agreed-upon treatment regimen, which may include follow-up testing.

Voluntary participation in the EAP prior to any incident that leads to disciplinary action will not affect your employment, nor will participation on the EAP protect an employee from disciplinary action if substandard job performance continues. The EAP is a process used in conjunction with discipline, not as a substitute for discipline.

Costs incurred through the EAP not covered by insurance are the employee’s responsibility.

The EAP can be accessed by an employee through self-referral or through referral by a supervisor.

## J. OBLIGATION TO PROVIDE NOTICE OF CONVICTION

As a condition of employment, employees must abide by the terms of this Policy, and must notify the City in writing of any conviction of a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.

## K. CONFLICT WITH LAW; AMENDMENT

This Policy shall be automatically amended to conform to applicable existing and future Tennessee and Federal law and, to the extent this Policy conflicts with Tennessee or Federal laws, the provisions of such applicable laws shall control.

## SECTION V – SEXUAL HARASSMENT POLICY

### A. GENERAL

The City will not tolerate sexual harassment of its employees. The City has adopted this policy on sexual harassment to try to prevent sexual harassment from occurring in the workplace. This policy applies to all officers and employees of the City, including but not limited to all elected officials of the City; all officers and appointees of the City; all members of boards, commissions and committees of the City; and all categories of other employees identified and described in these personnel policies and procedures; and any other individuals while they are working under contract or other agreement, expressed or implied, for the City.

### B. PROHIBITED ACTIONS AND BEHAVIORS

The following actions and behaviors constitute sexual harassment and, as such, are 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:

1. 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. sex-oriented comments on appearance;
6. sex-oriented stories, jokes or other communication, whether spoken or written, verbal or non-verbal;
7. displaying sexually explicit or pornographic material, no matter how the material is displayed; and/or
8. sexual assault.

### C. SEXUAL HARASSMENT COMPLAINTS

An employee who believes he or she is or has been subjected to sexual harassment should immediately notify the employee's department head, the City Recorder, the City Attorney, or the Mayor. The City encourages complaints to be made in writing. Employees have the right to circumvent the employee chain-of-command when selecting the person to whom they make the complaint regarding sexual harassment.

At the time of making a complaint, the employee should be prepared to provide the following information in writing, with the assistance, if necessary, of the person to whom the complaint is being made:

1. his or her own name, department, and position title;

2. the name of the person or people allegedly committing the sexual harassment, including their title(s), if known;
3. the specific nature of the alleged sexual harassment, when and where it took place, and how long it has gone on;
4. any employment action (demotion, failure to promote, dismissal, refusal to hire, transfer, etc.) taken against the employee that may be related to the alleged harassment, or any other threats made against the employee that may be related to the alleged harassment;
5. any witnesses to the alleged harassment; and
6. whether the employee has previously reported the alleged harassment and, if so, when and to whom.

#### D. REPORTING AND INVESTIGATING SEXUAL HARASSMENT COMPLAINTS

The City Attorney 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 Attorney, the investigator shall be a city employee or other representative of the City appointed by the Mayor.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately forward the written complaint to the Mayor (or if the complaint is against the Mayor then to the City Attorney). The Mayor will give a copy of the written complaint to the investigator. The investigator then shall:

1. Conduct a thorough investigation of the complaint, including at a minimum interviewing the person complaining of sexual harassment, the person against whom the complaint of sexual harassment was made, any witnesses to the alleged harassment, and any other persons who may have information pertinent to the allegation of sexual harassment;

2. Make and keep a written record of the investigation, including notes on:

- a. responses made to the investigator by the person complaining of sexual harassment;
- b. responses made to the investigator by the person against whom the complaint of sexual harassment was made;
- c. responses made to the investigator by witnesses interviewed during the investigation; and
- d. responses made to the investigator by any other person contacted by the investigator in connection with the investigation.

3. Within seven (7) business days of receiving the complaint, the investigator will prepare and present the findings of the investigation to the Mayor (or, if the complaint is against the Mayor, then to the Vice-Mayor) in a report, which will include:

- a. the original complaint and any additional written statement of the person complaining of sexual harassment;

- b. any written statement(s) of the person against whom the complaint of sexual harassment was made;
- c. any written statements of witnesses;
- d. any written statements of any other person contacted by the investigator in connection with the investigation; and
- e. a summary of the investigator's findings.

#### E. ACTION ON COMPLAINTS OF SEXUAL HARASSMENT

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

Based upon the report and his or her own investigation (if a separate investigation is made), the Mayor shall, within seven (7) City business days of receiving the investigation report, determine whether the conduct in question constitutes sexual harassment. In making that determination, the Mayor shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct and the circumstances in which the alleged actions occurred.

If the Mayor determines that the harassment complaint is founded, he or she shall take immediate and appropriate disciplinary action against the offending employee.

In the event the complaint of sexual harassment is against the Mayor, then the City Attorney shall advise the Board on what if any disciplinary action should be taken against the Mayor.

The disciplinary action shall be consistent with the nature and severity of the offense, the employee's rank, and any other factors relevant to the fair and efficient administration of the City. The disciplinary action may include demotion, suspension, dismissal, warning, or reprimand. Determining the level of disciplinary action shall be made on a case-by-case basis. A written record shall be kept of imposed disciplinary actions.

An employee against whom a complaint of sexual harassment has been made shall not retaliate in any way against the person making the complaint, witnesses, or any other person connected with the investigation.

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

#### F. OBLIGATION OF EMPLOYEES

Employees are obligated to report sexual harassment and to cooperate in a sexual harassment investigation. These obligations include, without limitation, coming forward with evidence about

a person accused of such conduct, fully and truthfully making written reports, and answering questions from an investigator.

Employees are also obligated to refrain from making frivolous accusations of sexual harassment. Disciplinary action may be taken against employees who fail to report instances of sexual harassment, fail or refuse to cooperate in the sexual harassment investigation, or file a frivolous complaint of sexual harassment.

## **SECTION VI – HARASSMENT, DISCRIMINATION, AND ABUSIVE CONDUCT** **POLICY**

The City of Milan is firmly committed to a workplace free from harassment, discrimination, and abusive conduct. The City strives to provide high quality services in an atmosphere of respect, collaboration, openness, safety, and equality. All employees have the right to be treated with dignity and respect. All complaints of negative and inappropriate workplace behaviors will be taken seriously and followed through to resolution. Employees who file complaints will not suffer negative consequences for reporting others for inappropriate behavior.

This policy applies to all employees of the City of Milan. This policy applies to any City-sponsored program, event, or activity, and the performance by officers and employees of their employment related duties. The policy includes electronic communications by any employee.

### **A. HARASSMENT OR DISCRIMINATION**

Harassment or discrimination based on sex, race, religion, color, age, disability, or place of origin will not be tolerated. Such behavior remains prohibited even if it does not occur on City property if it involves a City employee and affects the legitimate interests of the City.

Any employee who experiences or witnesses harassment or discrimination based on sex, race, religion, color, age, disability, or place of origin shall immediately notify their immediate supervisor or another member of management. The identity of the individual making the report shall be protected to the greatest extent possible. Failure to report such information may result in disciplinary action.

### **B. ABUSIVE CONDUCT**

Abusive conduct includes acts or omissions that would cause a reasonable person, based on the severity, nature, and frequency of the conduct, to believe that an employee was subject to an abusive work environment, which can include but is not limited to:

- Repeated verbal abuse in the workplace, including derogatory remarks, insults, and epithets;
- Verbal, nonverbal, or physical conduct of a threatening, intimidating, or humiliating nature in the workplace; or
- The sabotage or undermining of an employee's work performance in the workplace.

A single act generally will not constitute abusive conduct, unless such conduct is determined to be severe and egregious.

Abusive conduct does not include:

- Disciplinary procedures in accordance with the City's policies
- Routine coaching and counseling, including feedback about and correction of work performance
- Reasonable work assignments, including shift, post, and overtime assignments
- Individual differences in styles of personal expression
- Passionate, loud expression with no intent to harm others
- Differences of opinion on work-related concerns
- The non-abusive exercise of managerial prerogative

Supervisors and others in positions of authority have a particular responsibility to ensure that healthy and appropriate behaviors are exhibited at all times and that complaints to the contrary are addressed in a timely manner. Supervisors will:

- provide a working environment as safe as possible by having preventative measures in place and by dealing immediately with threatening or potentially violent situations;
- provide good examples by treating all with courtesy and respect;
- ensure that all employees have access to and are aware of the abusive conduct prevention policy and explain the procedures to be followed if a complaint of inappropriate behavior at work is made;
- be vigilant for signs of inappropriate behaviors at work through observation and information seeking, and take action to resolve the behavior before it escalates;
- respond promptly, sensitively and confidentially to all situations where abusive behavior is observed or alleged to have occurred.

Employees shall treat all other employees with dignity and respect. No employee shall engage in threatening, violent, intimidating, or other abusive conduct. Employees are expected to assume personal responsibility to promote fairness and equity in the workplace and report any incidents of abusive conduct in accordance with this policy.

Employees should cooperate with preventative measures introduced by supervisors and recognize that a finding of unacceptable behaviors at work will be dealt with through appropriate disciplinary procedures.

Retaliation is a violation of this policy. Retaliation is any act of reprisal, interference, restraint, penalty, discrimination, intimidation, or harassment against an individual or individuals exercising rights under this policy.

Any employee who feels he or she has been subjected to abusive conduct is encouraged to report the matter orally or in writing to any supervisor or member of management including, but not limited to, the Mayor, the Chief of Police or the City Recorder. Employees are not obligated to

report their complaints to their immediate supervisor first before bringing the matter to the attention of another member of management of the City of Milan.

Any employee seeking to file a complaint should ensure the complaint consists of precise details of each incident of abusive conduct including dates, times, locations and any witnesses. Formal complaints should be documented in writing, but are not required to be in writing.

An employee who witnesses or is made aware of behavior that may satisfy the definition of abusive conduct, as defined herein, should report any and all incidents as set forth herein.

Supervisors must timely report known incidents involving abusive conduct to the Mayor, City Recorder, or City Attorney. Supervisors should take reasonable steps to protect the complainant, including, but not limited to, separation of employees involved.

The person complained against will be notified that an allegation has been made against him or her and informed of the investigative procedure.

#### C. INVESTIGATION

Charges of harassment, discrimination, or abusive conduct shall be immediately reported to any supervisor or member of management including, but not limited to, the Mayor, the Chief of Police or the City Recorder. Investigation of such complaints shall be conducted as soon as practicable. The department head shall be responsible for investigating the alleged discrimination or harassment. Depending on the nature of the charges, the Mayor may order the Chief of Police or City Attorney to provide assistance to such department head or to assume responsibility for the investigation. All employees are required to assist in the course of the investigation by providing testimony, statements, and evidence, as applicable. Failure to cooperate may result in disciplinary action.

The objective of the investigation is to ascertain whether the conduct complained of occurred, and therefore will include interviewing the complainant, accused, and witnesses. All interviews will be appropriately documented. The investigation will be conducted thoroughly, objectively, with sensitivity, and with due respect for all parties. The investigator will provide a copy of the investigative report to the Mayor and/or department head as warranted by the circumstances.

#### D. CORRECTIVE ACTION

Employees engaging in activity in violation of this policy will be subject to disciplinary action up to and including dismissal.

In the event of a finding of harassment, discrimination, or abusive conduct, the City will take appropriate corrective action. Remedies may be determined by weighing the severity and frequency of the conduct, and in accordance with existing disciplinary policies of the City.

Any employee who engages in conduct that violates this policy or who encourages such conduct by others will be subject to corrective action. Such corrective action may include but is not limited to participation in counseling, training, and disciplinary action up to and including termination.

While the City encourages all employees to raise any concern(s) under this policy and procedure, the City recognizes that intentional or malicious false allegations can have a serious effect on innocent people. Individuals falsely accusing another of violations of this policy will be disciplined in accordance with the disciplinary policy of the City.

## **SECTION VII – OTHER PERSONNEL POLICIES**

### **A. SOLICITATION**

Solicitations for donations or contributions and peddling of goods or services among employees in City work areas or during City work time, other than as authorized by the department head or Mayor, is strictly prohibited. This prohibition applies both to employees and outsiders. Solicitation of gifts for such occasions as resignations, retirements, weddings, and births are considered authorized. Designated employee lunchrooms or rest areas are not considered work areas for the purposes of this policy. No pressure of any kind is to be placed on any employee to make any donations, contributions, or purchases.

### **B. TELEPHONES**

Use of the City's telephones during work hours should be for City business only, except for emergencies.

Use of a personal cell phone while on duty is discouraged and should be limited to important emergency family or family-related communications. Any personal cell phone usage, or use of the City's telephones, that adversely affects the productivity of an individual employee or work group will be subject to disciplinary action. Use of a personal cell phone or of the City's telephones that results in the employee committing an unsafe act or practice, or being involved in an avoidable on-the-job accident, will be subject to disciplinary action.

Any communication device provided by the City to the employee is for business use. Personal use of this equipment is discouraged and, if necessary, is to be limited to important emergency family or personal matters that are to be handled as quickly as possible. Excessive personal use, or use that adversely affects the productivity of an employee or work group, will be subject to disciplinary action. Use that results in an unsafe act or practice, or an avoidable on-the-job accident will be subject to disciplinary action.

### **C. FIREARMS, CONTROLLED SUBSTANCES, ALCOHOLIC BEVERAGES**

Alcoholic beverages and controlled substances other than validly prescribed medications are not permitted on City property. Any employee found in unauthorized possession of controlled substances, alcoholic beverages, or under the influence of said substances will be subject to disciplinary action that could include discharge. An employee shall inform his or her department head of any validly prescribed medication that could affect the ability of the employee's job responsibilities.

Possession of firearms on City property is prohibited except by duly authorized law enforcement personnel or as otherwise permitted by law.

#### D. FIGHTING, HORSEPLAY, DAMAGE TO CITY PROPERTY

Fighting, horseplay, and reckless or intentional damage to City property is prohibited. Employees engaging in any of these activities will be subject to disciplinary action that could include discharge. All City employees are obligated to report any such conduct to their supervisors.

#### E. PARKING

The City does not assume responsibility for loss of contents or damage to a vehicle at any time an employee's vehicle is parked on City property.

#### F. CITY VEHICLES, EQUIPMENT, AND OTHER PROPERTY

All City property is subject to inspection by authorized personnel and officials at any time without notice. There should be no expectation of privacy in or on such property. Property includes, but is not limited to, vehicles, desks, containers, files, and lockers. Even if such property, the use of which may even be assigned to individual employees, is locked by the employee, it is still subject to such inspection. Employees are expected to furnish their own lock and key so they will have control over access to such property. Liability for loss or damage to content of such property is not assumed by the City. Employees may be requested to open such property for periodic housekeeping, inspections, or other occasions when it is appropriate and/or necessary, as there is no expectation of privacy. Any suspicious activity around such property, as well as break-ins and thefts, should be reported to the employee's department head as soon as possible.

All City vehicles and equipment are for official use only. Drivers and/or operators must have a valid Tennessee driver's license and be approved by the department head or Mayor. For vehicles requiring a CDL, such license should be obtained prior to operation of said vehicles. The City shall pay the difference between a regular license and a CDL when required for operation of a City vehicle.

No City employee shall use or authorize the use of City time, facilities, equipment, or supplies for private gain or advantage to himself or any other private person or group. This prohibition does not apply in situations where the Mayor has authorized the use of such time, facilities, equipment, or supplies and the City is paid at such rates as are normally charged by private sources for comparable services.

#### G. BULLETIN BOARDS

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

## H. TRAVEL REIMBURSEMENT

All travel by City employees that involves reimbursement and/or City expense shall not be undertaken without prior approval of the department head or the Mayor.

## I. POLITICAL ACTIVITY

Political activity of employees is regulated applicable provisions of the City Charter and Tennessee law.

## J. BUSINESS DEALINGS

Except for the receipt of such compensation as may be lawfully provided for the performance of his/her duties, it shall be unlawful for any City officer or employee to be privately interested in or to profit, directly or indirectly, from business dealings with the City.

## K. ACCEPTANCE OF GRATUITIES

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

## L. USE OF POSITION

No City employee or elected official shall make or attempt to make private purchases in the name of the City, nor shall an employee or official otherwise use or attempt to use his/her employment or elected position to secure unwarranted privileges or exemptions for themselves or others.

## M. NEPOTISM

### 1. Definitions.

- (a) The term “relative” as used in this section means a parent, foster parent, parent-in-law, child, spouse, brother, foster brother, sister, foster sister, grandparent, grandchild, son-in-law, brother-in-law, daughter-in-law, sister-in-law, or other family member who resides in the same household.
- (b) The term “direct supervision” as used in this section means the direction of a City employee by such employee’s immediate supervisor.
- (c) The term “immediate supervisor” as used in this section means the City employee to whom another employee is responsible for day-to-day employment activities.

2. No City employees who are relatives shall be placed in a position whereby one (1) relative is responsible for direct supervision of the job performance or work activities of another relative.

3. When as a result of marriage, promotion or otherwise, City employees are in violation of this policy, such violation may be resolved by means of transfer at the City's discretion or resignation as may be necessary to remove such violation. If the City chooses not to effect a transfer and no resignation is tendered, the City may take appropriate action to remove such violation.

## N. SOCIAL MEDIA POLICY

### 1. Definition of "Social Media;" Applicability

- a. For purposes of this policy, the term "Social Media" means content created by people using internet-based publishing technologies accessible by others including, without limitation, internet forums, webpages, blogs, podcasts, instant messaging, Youtube, Facebook, Instagram, Twitter, or Snapchat.
- b. This policy applies to every employee of the City of Milan.

### 2. Official City Social Media

- a. The City of Milan maintains an online presence. All Social Media represented to be official Social Media of the City of Milan shall be pre-approved by the Mayor or his designee.
- b. The City of Milan's primary internet presence shall remain [www.cityofmilantn.com](http://www.cityofmilantn.com), and the City may also maintain official Social Media accounts at the discretion of the Mayor. No other website or Social Media account shall characterize itself as an official website or Social Media account of the City of Milan without the express consent of the City of Milan.

### 3. Social Media Not Owned or Created by the City

- a. An employee may not characterize him or herself as representing the City of Milan, directly or indirectly, in any Social Media posting unless the characterization is made pursuant to authorization from the employee's supervisor.
- b. The use of a City of Milan email address, job title, seal, or logo shall be deemed an attempt to represent the City of Milan in an official capacity. Other communications leading a reasonable person to conclude that a posting was made in an official capacity shall also be deemed an attempt to represent the City of Milan in an official capacity.

- c. An employee posting Social Media shall take reasonable care not to disclose any confidential information.
  - d. When posting Social Media in a non-official capacity, an employee shall take reasonable care not to identify him or herself as an employee of the City of Milan.
  - e. Employees are responsible for respecting the privacy rights of the City's employees and officers.
  - f. No employee may post or access Social Media during work hours without the express permission of the Mayor or his designee.
  - g. No employee may use the City's internet connection to post or access Social Media without the express permission of the Mayor or his designee.
4. Free Speech Not Infringed

Nothing in this policy is designed to interfere with, restrain, or prevent employee communications regarding the terms and conditions of employment or to interfere with or infringe upon an employee's right of free speech on matters of public or private concern. Municipal employees have the right to engage in or refrain from such activities.

## **SECTION VIII - DISCIPLINARY ACTIONS; GRIEVANCES**

### **A. DISCIPLINARY ACTION**

Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, supervisors should inform employees promptly and specifically of such lapses and should 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.

**THIS IS NOT AN EMPLOYMENT CONTRACT. THE PROVISIONS SET FORTH IN THESE PERSONNEL RULES RELATING TO EMPLOYEE CONDUCT, DISCIPLINE AND DISCIPLINARY PROCEDURES ARE FOR INTERNAL OPERATING PURPOSES ONLY AND DO NOT CONFER ANY RIGHTS TO EMPLOYEES REGARDING CONTINUOUS EMPLOYMENT OR OTHERWISE. THE CITY RESERVES THE RIGHT TO ALTER OR CHANGE ANY OR ALL OF THESE PERSONNEL POLICIES AND PROCEDURES. ALL CITY EMPLOYEES ARE EMPLOYEES AT WILL.**

Some examples of behavior for which an employee may be disciplined include, without limitation:

1. Unsatisfactory job performance;
2. Unsatisfactory attendance/excessive tardiness;
3. Falsification of any work-related document;

4. Misappropriation, destruction, theft, or conversion of City or employee property, or the property of others;
5. Carelessness or negligently causing the loss of City, private or public property, and/or failure to report same;
6. Failure to follow reasonable verbal or written instruction;
7. Failure to follow departmental work rules, policies, or procedures;
8. Charge of a felony and/or charge of a misdemeanor involving moral turpitude, or if a jail sentence is imposed for any criminal offense;
9. Possession or use of drugs, alcohol, or illegal substances during work hours;
10. Carelessness affecting employee safety or violation of safety rules and practices;
11. Use of City equipment for personal use or gain without authorization;
12. Conduct in the workplace that is not conducive to harmonious relations with fellow employees, or conduct that interferes with the ability to perform efficiently;
13. Behavior that reflects discredit to the department, the employee or the City;
14. Insubordination;
15. Incompetence;
16. Failure to report accidents or personal injury;
17. Absence from workstation without authorization;
18. Acts of misconduct while on duty;
19. Engaging in horseplay or playing pranks that result in injury either to self or others;
20. Possession of firearms or other weapons on City property in violation of ordinance or state law;
21. Use of profanity or abusive language;
22. Reporting to work under the influence of alcoholic beverages and/or illegal drugs and/or narcotics;
23. Fighting or assault on a fellow employee;
24. Threatening or intimidating management, department heads, or fellow workers;
25. Unauthorized sleeping on the job;
26. Failure to wear assigned safety equipment or failure to abide by safety rules and policies;
27. Engaging in any form of sexual harassment;
28. Failure to maintain a valid driver's license, if possession of such is a job requirement;
29. Violation of any of the provisions of the Charter, ordinances, rules or regulations of the City;
30. Failure to cooperate with investigators or authorities during an investigation;
31. Making false and/or misleading statements during an investigation; or
32. Failure to submit to physical, psychological, and/or drug testing if required or requested.

The following types of discipline may be imposed:

1. Oral Reprimand

An oral reprimand should be administered and documented by the supervisor as soon after the violation as is practicable. The documentation should be submitted to the department head and placed in the employee's personnel file. The document may be removed from the file and destroyed after twelve (12) months with the approval of the Mayor.

## 2. Written Reprimand

In situations where an oral reprimand has not resulted in the expected improvement, or when more severe initial action is warranted, a written reprimand may be sent to the employee with the approval of the department head. A copy of the written reprimand shall immediately be placed in the employee's personnel folder where it will remain permanently.

## 3. Suspension

An employee may be suspended, with or without pay, by his or her department head. Suspensions cannot exceed a total of thirty (30) days within any twelve (12) month period. The thirty (30) day limitation period does not apply when the employee has been charged with a felony or misdemeanor involving moral turpitude or any criminal offense for which a jail sentence is imposed. A written statement of the suspension, explaining the reason for the suspension, shall be provided by the department head to the employee by mail or other method within three (3) business days of the suspension date. A copy of this written statement will also be placed in the employee's personnel folder.

## 4. Demotion

An employee may be demoted by their department head as a means of disciplinary action. A demotion is assigning an employee from one position to another that has a lower pay rate, rank, or level of responsibility.

The department head will provide a written statement to the employee which explains the nature of the demotion and the reasons therefore. A copy of this written statement will also be placed in the employee's personnel folder.

## 5. Dismissal

All employees of the City of Milan are employees at will. The City may terminate an employee's employment with the City for any reason, or no reason, but the City will not terminate an employee based on a discriminatory reason or for any reason that would be contrary to law.

Upon termination of employment, the employee may appeal the termination of employment to the Mayor by submitting a letter to the Mayor within seven (7) days of the employee's termination stating the employee's basis for appealing the decision to terminate employment, along with any supporting documents, evidence, or the statements of any witnesses. The Mayor shall have the final authority to affirm or reverse the termination of employment, or to take other actions as deemed appropriate by the Mayor.

## B. GRIEVANCES

A grievance is defined as an employee's complaint, or an employee's feeling of dissatisfaction or difference of opinion, disagreement, or dispute arising between employees or between an employee and his or her department head and/or the City, regarding some aspect of his or her employment, application or interpretation of these personnel policies and procedures, or some management decision affecting the employee. A grievance may arise from an employee's complaint about, disagreement with, or misunderstanding concerning any of the following:

- some aspect of employment and/or employment conditions, except those specifically listed below;
- a working relationship between the employee and the employee's supervisor and/or the employee's department head and/or the City;
- a working relationship between the employee and other employees;
- the fairness, application, or interpretation of these personnel policies and procedures, except those specifically listed below; or
- management or administrative decisions or directives affecting the employee's health, safety, workplace, equipment or material used.

A grievance may not arise from any of the following:

- termination of employment; and
- the abolishment of positions and any resulting demotions, transfers, or lay-offs.

Employees who have a grievance shall have the right to discuss said complaint with their immediate supervisor, and/or their department head. It is the City's desire to address grievances informally, and both supervisors and employees are expected to make every effort to resolve problems as they arise. However, it is recognized that there will be occasional grievances that will be resolved only by more formal means.

Every employee may present a complaint under the provisions of the complaint procedures free from fear, interference, restraint, discrimination, coercion or reprisal.

Steps of the formal grievance procedure are as follows:

Step 1: The employee makes a written presentation of their grievance to their immediate supervisor. It shall be the supervisor's responsibility to promptly consider and take action on said grievance and to inform the department head of the grievance and the action taken. The department head shall inform the employee of the decision concerning their grievance and any action taken. The department head shall prepare a written report of the grievance and forward it to the Mayor.

Step 2: If the grievance is not resolved within the department, the employee may make a written request to have a hearing with the Mayor. The Mayor may schedule a hearing at his discretion. The decision of the Mayor will be final.

## **SECTION IX – MISCELLANEOUS**

### A. REPLACEMENT OF PREVIOUS PERSONNEL POLICIES

These Personnel Policies replace and supersede the City of Milan Personnel Policies and Regulations dated March 11, 2003, as amended.

### B. AMENDMENTS

The Board of Mayor and Aldermen may change these personnel policies at any time.

### C. SEVERABILITY

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

### D. CONFLICT WITH CHARTER OR OTHER LAW

To the extent these policies conflict with the City of Milan Charter, Tennessee law, or federal law, the provisions of the Charter or other applicable law shall control.