

TITLE 4**MUNICIPAL PERSONNEL****CHAPTER**

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CHAPTER 1**PERSONNEL POLICY****SECTION**

- 4-101. General definitions.
- 4-102. Purpose.
- 4-103. At-will employer.
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4-101. General definitions. The following are definitions as used in this chapter of the Lexington Municipal Code:

(1) "Board." The Board of Mayor and Aldermen for the City of Lexington, Lexington Gas System Board and/or Lexington Water Systems Board.

(2) "Department head." Lexington Utilities General Manager, City of Lexington Recorder, police chief, fire chief, and/or public works director.

(3) "Personnel department." Lexington Water Systems Administration Office, Lexington Gas System Administration Office, and/or the City of Lexington Recorder's Office.

(4) "Personnel director." City recorder or their designee. (as replaced by Ord. #200801, Jan. 2008)

4-102. Purpose. The purpose of this chapter is to establish a system of personnel administration for the employees of the City of Lexington, Tennessee. (as replaced by Ord. #200801, Jan. 2008)

4-103. At-will employer. The City of Lexington, Tennessee is an at-will employer. Nothing in this chapter may be construed as creating a property right or contract right to any job for any employee. Employees may be dismissed for cause, for no cause, or for any cause as long as it does not tolerate federal and/or state law or the municipal charter. (as replaced by Ord. #200801, Jan. 2008)

4-104. Coverage. The following personnel are not covered by this policy, unless otherwise provided:

- (1) All elected officials;
- (2) Members of appointed boards and commissions;
- (3) Consultants, advisers, and legal counsel rendering temporary professional service;
- (4) The city attorney;
- (5) Independent contractors and/or contract employees;
- (6) Volunteer personnel;
- (7) The city judge.

All other employees of the municipal government are covered by this personnel policy. (as added by Ord. #200801, Jan. 2008)

CHAPTER 2

EMPLOYEES

SECTION

4-201. Full-time.

4-202. Part-time.

4-203. Mandatory retirement age for police officers and firefighters.

4-201. Full-time. Full-time employees are individuals employed by the municipal government who are normally scheduled to work forty (40) hours per week. (as replaced by Ord. #200801, Jan. 2008)

4-202. Part-time. Part-time employees are individuals who may not work on a daily basis or who may work on a daily basis fewer than eight (8) hours or who are temporary and/or seasonal employees and shall work less than an annual average of thirty (30) hours per week. (as replaced by Ord. #201406, Aug. 2014)

4-203. Mandatory retirement age for police officers and firefighters. Any persons employed in the positions of police officer or firefighter shall retire upon attaining "full retirement age" as determined by the Social Security Administration. Said retirement shall become effective upon the first day of the month following their reaching said age. (as added by Ord. #980006, Dec. 1998, and replaced by Ord. #200801, Jan. 2008)

CHAPTER 3

HIRING PROCEDURES

SECTION

- 4-301. Policy statement.
- 4-302. Application.
- 4-303. Employment disqualification.
- 4-304. Interviews.
- 4-305. Pre-appointment exams.
- 4-306. Appointments, hirings, etc.
- 4-307. Probation.

4-301. Policy statement. The primary objective of this hiring policy is to insure compliance with the law and to obtain qualified personnel to serve the citizens of the municipality. The municipality shall make reasonable accommodations in all hiring procedures for all persons with disabilities. (as replaced by Ord. #200801, Jan. 2008)

4-302. Application. Persons seeking appointment or employment with the municipality must complete a standard application form provided by the municipal government. Applications for the associated divisions shall be available at the main business offices of Lexington Gas System, Lexington Water Systems, Lexington Police Department and Lexington City Hall during regular office hours only. Applications may also be made available on the City of Lexington web site. Some positions may require resumes to be submitted. Applications will remain on active status for six (6) months after accepted or until the job for which the application was submitted is filled, whichever period of time is less. (as replaced by Ord. #200801, Jan. 2008, and Ord. #201306, Aug. 2013)

4.303. Employment disqualification. Any individual with a felony conviction within seven (7) years of making application is automatically disqualified for employment with the city. Additional restrictions may be placed on certain positions that require specific licenses or by state and or federal mandates. (as replaced by Ord. #200801, Jan. 2008)

4-304. Interviews. All appointments will be preceded by an interview with one or more of the following:

- (1) The department head;
- (2) The department hiring committee;
- (3) The board. (as replaced by Ord. #200801, Jan. 2008)

4-305. Pre-appointment exams. For certain positions, the employee may be required to undergo a validated physical agility/ability examination related to the essential functions of the job; written and/or oral tests related to the essential functions of the job. Upon a conditional offer of employment, all prospective employees must undergo a medical examination to determine the employee's ability to perform the essential functions on the job and also a drug screen. For some positions a psychological examination will be required. Reasonable accommodations shall be made in the physical agility/ability exam for applicants with disabilities upon making a request for accommodations. (as replaced by Ord. #200801, Jan. 2008)

4-306. Appointments, hirings, etc. All appointments/hirings shall be made or authorized by the board in accordance with lawful provisions of the municipal charter and code. Promotions and transfers shall be made by the department heads subject to approval by the CFO for budgetary purposes. (as amended by Ord. #200401, Jan. 2004, and replaced by Ord. #200801, Jan. 2008)

4-307. Probation. Only performance on the job is sure proof that an individual is capable of performing their duties; therefore, new employees are required to serve a probationary period of sixty (60) days. This time protects both the individual and the city from a prolonged association unprofitable to either. During this period, the employee's performance and work will be subject to review as to their competence to fill the position. Only after successful completion of this probationary period will the individual be recognized as a regular full time employee and due benefits as they become available. (as added by Ord. #201406, Aug. 2014)

CHAPTER 4

BENEFITS

SECTION

- 4-401. Holidays.
- 4-402. Vacations.
- 4-403. Personal leave.

4-401. Holidays. (1) Generally, full-time employees are allowed a day (eight (8) hours) (ten (10) hours non salaried firemen) off with pay on the following holidays:

- (a) New Years Day;
- (b) Martin Luther King Day;
- (c) Good Friday;
- (d) Memorial Day;
- (e) Fourth of July;
- (f) Labor Day;
- (g) Veteran's Day;
- (h) Thanksgiving (2 days);
- (i) Christmas (2 days);
- (j) Bonus Day.

(2) Employees must be in a pay status on the workday before and on the workday after the holiday, unless otherwise excused by the department head, to receive compensation for the holiday.

(3) Bonus Day (j) shall be observed on a day designated by the mayor and used in combination with another holiday to allow for efficient, orderly work flow of city departments along with convenience of work scheduling to city employees.

(4) Employees with a floating holiday schedule shall apply for equal time off on an alternate day. Application must be made seventy-two (72) hours (minimum) prior to date requested and be approved by the department head or his designee. Holidays cannot be accumulated.

(5) Unless otherwise specified by the board of mayor and aldermen, holidays that fall on Sunday will be observed on the following Monday and those that fall on Saturday will be observed on the preceding Friday. (as replaced by Ord. #200801, Jan. 2008, and Ord. #201303, Feb. 2013)

4-402. Vacations. (1) Vacation days are given to employees by the City of Lexington in appreciation of service. It is a time provided for a respite from work responsibilities so that employees can return to work with renewed vigor and a new outlook.

Vacation days are given to eligible employees in amounts related to their length of continuous employment with the city as follows:

Employed 1 year =	40 hours or 48 hours/non salaried firemen
Employed 5 years =	Additional 40 hours or 48 hours/non salaried firemen
Employed 15 years =	Additional 40 hours or 48 hours/non salaried firemen

These days are initially given to an employee on the anniversary of their hire date, but thereafter the total of acquired vacation days are given to employees on the 1st day of January each year. Application must be made seventy-two (72) hours (minimum) prior to date requested for vacation and be approved by the department head or his designee.

(2) Vacation days cannot be accumulated. Each year's vacation must be used during that calendar year. The only exception to this shall be that employees hired in December will be allowed to take the week earned on the anniversary of their hire date in January of the following year.

If the days cannot be scheduled due to no fault of the employee then the employee will be paid for these days subject to approval by the board. At the first regular meeting of the board in January of each year the personnel director shall advise the board of any unused vacation days or holidays. The board shall appropriate funding to pay for these days with the department head to be held accountable for lack of scheduling. Salaried personnel will not be paid for any unused vacation days or holidays. Vacation days shall be taken at a time approved by the employee's department head.

(3) Upon separation, employees are entitled to be paid for any unused vacation leave, not to exceed the maximum accrual allowed for the years of service completed. (as replaced by Ord. #200801, Jan. 2008)

4-403. Personal leave. (1) Eligible employees shall be entitled to accrue personal leave at a rate of one (1) day (eight (8) hours) (ten (10) hours/non salaried firemen) per month. These hours will be credited to the employee on the first day of the month, having been earned during the preceding month, and may not be borrowed or used prior to that day.

(2) Personal leave, so far as practical, will be granted by permission of the Department head at the time desired by the employee; but it must be scheduled in such a manner that orderly operation of the department involved will continue and adequate service to the public can be maintained. Any denial of leave may be appealed to the board.

(3) Employees on paid leave will continue to earn and accrue personal leave but no personal leave can be earned or accrued during a period of layoff or

any extended leave of absence without pay. There will be no limit on the amount of personal leave days an employee may accrue.

(4) Upon leaving employment with the City of Lexington, employees are entitled to be paid for all accumulated personal leave. The vacancy created will not be filled until the expenditure for the leave has been recovered through the budgeted salary for this position. If the position is deemed critical, the board may vote to amend the budget, if funds are available, to fill the position. (as replaced by Ord. #980005, Aug. 1998, and Ord. #200801, Jan. 2008)

CHAPTER 5

ATTENDANCE REQUIREMENTS

SECTION

4-501. Policy statement.

4-502. Attendance.

4-503. Time cards/sheets.

4-501. Policy statement. The city is committed to quality and responsible service to our residents and utility customers. Unplanned absenteeism prevents the city from meeting this standard of service. This policy recognizes the need for legitimate absences from work and establishes procedures for consistent treatment of excessive or unexcused absences. (as replaced by Ord. #200801, Jan. 2008)

4-502. Attendance. In order that the business of the city be conducted, it is important that all employees maintain regularity in attendance. It is recognized, however, that instances will occur when an employee must be absent due to bona fide sickness or emergency situations beyond the control of the employee. At the same time, we believe the city is entitled to expect employees to keep absences to a minimum. Excessive absenteeism and/or tardiness will not be tolerated and shall be dealt with through disciplinary action. The following procedures shall regulate employee attendance:

(1) If an employee is unable to come to work or knows that they are going to be late, they must notify their immediate supervisor prior to the start of their work schedule. If an employee is unable to reach their supervisor, they should contact their department office to leave word of their situation. It is the responsibility of the employee to obtain the name of the person to whom the absence or tardiness was reported.

(2) Each employee's attendance record shall be reviewed after their initial three (3) months of employment (or enactment of this chapter) and thereafter at the end of each month.

(3) Absenteeism in excess of five percent (5%) of scheduled work time during a running three (3) month consecutive period shall compel disciplinary action.

(4) An oral warning shall be issued for the first incident; a written warning for the second and third incidents; and, termination for the fourth incident.

(5) Not counted in determining appropriated disciplinary action will include: death in family, jury duty, work injury, vacation, approved leave of absence, and on rare occasions absence due to extenuating circumstances.

(6) With acceptable attendance for twelve (12) consecutive months, disciplinary warnings shall be removed from the employee's record.

(7) Three (3) consecutive days of no call/no show shall be considered a voluntary resignation at the end of the shift on the third day. No warning or other type of disciplinary action will be given. (as added by Ord. #200801, Jan. 2008)

4-503. Time cards/sheets. Employees shall clock or sign in and out to record all time at work. Employee shall verify time card/sheet at end of work pay period and sign as to accuracy. Missed clock ins and/or outs will lead to disciplinary action. Falsifying time card/sheet shall result in immediate termination. (as added by Ord. #200801, Jan. 2008)

CHAPTER 6

GRIEVANCE PROCEDURES

SECTION

4-601. Grievance policy.

4-602--4-614. [Deleted.]

4-601. Grievance policy. The purpose of this section is to prescribe uniform disposition procedures of grievances presented by individual employees. A grievance is a written question, disagreement, or misunderstanding concerning administration orders involving only the employee's work area, reasonable accommodations under Americans with Disabilities Act, physical facilities, unsafe equipment, or unsafe material used. The grievance must be submitted within five (5) working days of the incident causing the grievance.

Employees must remember that there is no grievance until the appropriate supervisor has been made aware of the dissatisfaction by written notice. Once this is done, the following steps are to be taken:

- Step 1. Discuss the written grievance with the immediate supervisor. If satisfaction is not obtained, the grievance is advanced to the second step.
- Step 2. Discuss the grievance with the appropriate department head. If the grievance is not resolved, it is advanced to the third step along with all documentation.
- Step 3. Discuss the grievance with the personnel director. If the grievance is not resolved, it is advanced to the fourth step along with all documentation.
- Step 4. Discuss the grievance with the mayor. If the mayor is unable to resolve the grievance, he will set up a meeting with the board.
- Step 5. The board is the last and final step in the process. The decision of this board is final and binding to all parties involved. (as replaced by Ord. #200801, Jan. 2008)

4-602--4-614. [Deleted.] (as deleted by Ord. #200801, Jan. 2008)

CHAPTER 7

STATE AND FEDERAL PERSONNEL MANDATES

SECTION

- 4-701. Discrimination prohibited.
- 4-702. Sexual harassment prohibited.
- 4-703. Occupational safety and health.
- 4-704. Overtime/on call compensation.
- 4-705. Military leave/veterans' re-employment.
- 4-706. Family and medical leave.
- 4-707. Leave for adoption, pregnancy, childbirth and nursing an infant.
- 4-708. Commercial driver's license.
- 4-709. Residence requirements.
- 4-710. Employee right to contact elected officials.
- 4-711. Civil leave.
- 4-712. Voting.
- 4-713. Political activity.
- 4-714. Travel policy.

4-701. Discrimination prohibited. The municipality is an equal opportunity employer. Except as otherwise permitted by law, the municipality will not fail to hire, refuse to hire, or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, gender, or national origin, or because the individual is forty (40) or more years of age. The municipality will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, or other terms, conditions, and privileges of employment. (Title VII of Civil Rights Act of 1964 - 42 U.S.C. 2000e - 2000e-15; Equal Pay Act 1963 - 29 U.S.C. 206(d); Age Discrimination in Employment Act - 29 U.S.C. 621, et seq.; Americans With Disabilities Act - 42 U.S.C. 506, et seq.) (as replaced by Ord. #200801, Jan. 2008)

4-702. Sexual harassment prohibited. (1) Sexual harassment by any employee or elected or appointed official of the municipality will not be tolerated. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's department head, supervisor(s) or fellow employees or others at the work place that creates a hostile work environment, makes decisions contingent on sexual favors, or adversely affects an employee's job performance. Examples of conduct that may constitute sexual harassment are: sexual advances, requests for sexual favors, propositions, physical touching,

sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs.

(2) Any employee who believes that he or she has been subjected to sexual harassment should immediately report this to the city recorder or mayor. Within the limits of the Tennessee Open Records Law, the municipality will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee who makes a claim of sexual harassment or who is a witness to the harassment.

(3) The municipality will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. If the municipality determines that sexual harassment has occurred, corrective action will be taken. The municipality will attempt to make the corrective action reflect the severity of the conduct. If it is determined that no harassment has occurred, this will be communicated to the employee who made the complaint, along with the reasons for the determination. (as replaced by Ord. #200801, Jan. 2008)

4-703. Occupational safety and health. This section shall provide authority for establishing and administering the occupational safety and health program for the employees of the City of Lexington as follows:

(1) Coverage. The provisions of the occupational safety and health program plan for the employees of the City of Lexington shall apply to all employees of each administrative department, commission, board, division, or other agency of the City of Lexington whether part-time or full-time, seasonal, temporary or permanent.

(2) Standards. The occupational safety and health standards adopted by the City of Lexington are the same as, but not limited to, the State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with section 6 of the Tennessee Occupational Safety and Health Act of 1972.

(3) Variances. The City of Lexington may, upon written application to the Commissioner of Labor of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development, Occupational Safety, chapter 0800-1-2, as authorized by Tennessee Code Annotated, title 50. Prior to requesting such temporary variance, the city shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main departmental bulletin boards as designated by the City of Lexington shall be deemed sufficient notice to employees.

(4) Administration. For the purposes of this section, the City of Lexington Fire Chief is designated as the director of occupational safety and health (safety director) and shall perform the duties to plan, develop, and administer the City of Lexington Occupational Safety and Health Program when

it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and part IV of the Tennessee Occupational Safety and Health Plan and is approved and adopted by the City of Lexington Board of Mayor and Aldermen.

(5) Accident reporting procedures. Employees shall report all injuries or accidents, no matter how minor, immediately to their supervisor who in turn shall notify the department head. An incident report and/or injury report must be completed with the department of human resources within twelve (12) hours of the occurrence.

(6) Funding. Funds for administering the program pursuant to this section will be made available as authorized by the City of Lexington.

(7) Program. The Occupational Safety and Health Program for the City of Lexington, including appendices, shall be adopted by resolution by the board of mayor and aldermen and shall be included in the Appendix.¹ (as replaced by Ord. #200801, Jan. 2008, and Ord. #201001, April 2010)

4-704. Overtime/on call compensation. (1) Overtime is defined as hours worked beyond two hundred twelve (212) worked hours in a twenty-eight (28) day work period for the fire department and forty (40) worked hours in a seven (7) day work period for all other departments. Overtime shall be paid at a rate of one and one half (1 1/2) times regular pay as per the Fair Labor Standards Act. All employees are required as a condition of employment with the city to work overtime as determined necessary by the department head.

(2) All employees of the city are "subject to call-in" for emergency purposes by the department head or his designee and, at such times, shall be reimbursed for the use of personal vehicles at a rate of ten dollars (\$10.00) per call-in.

(3) Holiday hours shall count as hours worked for determining overtime. Other time such as vacation, personal leave, comp, etc. will not count as hours worked for determining overtime with the exception of emergency call-ins for employees "subject to call-in" for the police and fire departments.

(4) Department heads or their designees shall approve all overtime in advance except when emergencies arise that make advanced approval unfeasible (such as after hours call-ins). In situations as these, the department head shall ensure the accuracy of all overtime claimed.

(5) A minimum of one (1) hour will be given to any employee called out after hours. All time worked over this minimum shall be paid for actual time worked.

¹The Appendix (and any amendments) is available for inspection in the city recorder's office.

(6) Some employees shall be required to serve in "on call status" that will require being available and working after normal work hours. The following policies apply to this:

(a) Employees eligible for "on call status" in the police department shall live within a six (6) mile radius of the department's main office. Employees eligible for "on call status" in all other departments shall live within Henderson County. In the public works department, eligible employees shall be maintenance operators, and, in the police department, eligible employees shall be criminal investigators

(b) All eligible employees shall serve in the capacity of "on call status" on a rotating schedule as developed and maintained by the department head or their designee.

(c) The department shall provide "on call status" employee with a vehicle and a cell phone. Both are to be used only for "on call" service.

(d) On call employee shall be available for duty during all hours of his "on call status" schedule for shall remain within the six (6) mile radius or within Henderson County, as required by his department, at all times during his on call schedule.

(e) Any swap of "on call status" between employees shall have prior approval by the department head or his designee.

(f) Employees required to be in "on call status" shall be paid forty-five dollars (\$45.00) per week in addition to any other hours/wages paid.

(g) Employees "subject to call-in" are not covered by this policy. (as replaced by Ord. #200801, Jan. 2008, and amended by Ord. #200802, March 2008, and Ord. #201205, April 2012)

4-705. Military leave/veterans' re-employment. All employees who are members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and they must be given such leave with pay not exceeding twenty (20) working days in any one (1) calendar year.¹ Also, any employee of the municipality who leaves their job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the job in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA 38 U.S.C.A. 4301-4333) and the Tennessee Military Leave Act.² (as replaced by Ord. #200801, Jan. 2008)

¹State law reference

Tennessee Code Annotated, § 8-33-109.

²Tennessee Code Annotated, § 8-33-101, et seq.

4-706. Family and medical leave. (1) If the municipality has fifty (50) or more employees on the payroll an eligible employee (one who has been employed at least twelve (12) months and worked at least one thousand two hundred fifty (1,250) hours in the preceding twelve (12) months) will be provided twelve (12) calendar weeks of unpaid leave for medical conditions of the employee or their family members in accordance with the Family and Medical Leave Act (P.L. 103-3).

(2) Upon receipt from the employee of a written request for FML along with a doctor's statement of needed leave, a written determination from the department head and personnel department shall be issued to the employee. (as replaced by Ord. #200801, Jan. 2008)

4-707. Leave for adoption, pregnancy, childbirth and nursing an infant. (1) Employees who have been employed for at least twelve (12) consecutive months as full-time employees, as determined by the city, may be absent from such employment for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing an infant, where applicable, referred to as "leave" in this section. With regard to adoption, the four-month period shall begin at the time an employee receives custody of the child.

(2) Employees who give at least three (3) months' advance notice to their department head of their anticipated date of departure for such leave, their length of leave, and their intention to return to full-time employment after leave, shall be restored to their previous or similar positions with the same status, pay, length of service credit and seniority, wherever applicable, as of the date of their leave.

(3) Employees who are prevented from giving three (3) months' advance notice because of a medical emergency that necessitates that leave begin earlier than originally anticipated shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) months' advance notice. Employees who are prevented from giving three (3) months' advance notice because the notice of adoption was received less than three (3) months in advance shall not forfeit their rights and benefits under this section solely because of their failure to give three (3) month's advance notice.

(4) Such leave shall not affect the employees' right to receive vacation time, personal leave, bonuses, advancement, seniority, length of service credit, benefits, plans or programs for which the employees were eligible at the date of their leave, and any other benefits or rights of their employment incident to the employees' employment position; provided, that the city need not provide for the cost of any benefits, plans or programs during the period of such leave, unless the city so provides for all employees on leaves of absence.

(5) If an employee's job position is so unique that the city cannot, after reasonable efforts, fill that position temporarily, then the city shall not be liable under this section for failure to reinstate the employee at the end of the leave period.

(6) The purpose of this section is to provide leave time to employees for adoption, pregnancy, childbirth and nursing the infant, where applicable; therefore, if the city finds that the employee has utilized the period of leave to actively pursue other employment opportunities or if the city finds that the employee has worked part time or full time for another employer during the period of leave, then the city shall not be liable under this section for failure to reinstate the employee at the end of the leave.

(7) Whenever the city shall determine that the employee will not be reinstated at the end of the leave because the employee's position cannot be filled temporarily or because the employee has used the leave to pursue employment opportunities or to work for another employer the city shall so notify the employee. (as added by Ord. #200801, Jan. 2008)

4-708. Commercial driver's license. All employees that drive:

(1) A vehicle with a gross weight of more than twenty-six thousand (26,000) pounds;

(2) A trailer with a gross weight of more than ten thousand (10,000) pounds;

(3) A vehicle designed to transport more than fifteen (15) passengers, including the driver; and

(4) Any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee Commercial Driver's License in accordance with Tennessee Code Annotated, § 55-50-101, et seq. Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements. (as added by Ord. #200801, Jan. 2008)

4-709. Residence requirements. No person "currently employed" by the municipality can be dismissed or penalized "solely on the basis of non-residence".¹ However, all future employees shall be required to live within Henderson County. (as added by Ord. #200801, Jan. 2008)

4-710. Employee right to contact elected officials. No employee shall be disciplined or discriminated against for communicating with an elected official. However, an employee may be reprimanded for making untrue allegations concerning any job-related matter.² (as added by Ord. #200801, Jan. 2008)

¹State law reference

Tennessee Code Annotated, § 8-50-107.

²State law reference

Tennessee Code Annotated, § 8-50-601-604.

4-711. Civil leave. Civil leave with pay shall be granted to employees for the following reasons:

- (1) Jury duty¹;
- (2) To answer a subpoena to testify for the municipality. (as added by Ord. #200801, Jan. 2008)

4-712. Voting. When elections are held in the state, leave for the purpose of voting, if requested and needed, shall be in accordance with Tennessee Code Annotated, § 2-1-106. (as added by Ord. #200801, Jan. 2008)

4-713. Political activity. Employees have the same rights as other citizens to be a candidate for state or local political office (except for membership on the municipal governing body) and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. No employee may campaign on municipal time or in municipal uniform nor use municipal equipment or supplies in any campaign or election.² (as added by Ord. #200801, Jan. 2008)

4-714. Travel policy. All employees, including elected and appointed officials, are required to comply with the municipality's travel policy as required by Tennessee Code Annotated, § 6-54-901. (as added by Ord. #200801, Jan. 2008)

¹State law reference
Tennessee Code Annotated, § 22-4-108.

²State law reference
Tennessee Code Annotated, § 7-51-1501.

CHAPTER 8

MISCELLANEOUS PERSONNEL POLICIES

SECTION

- 4-801. Outside employment.
- 4-802. Use of municipal time, vehicles, facilities, etc.
- 4-803. [Deleted.]
- 4-804. [Deleted.]
- 4-805. Use of position.
- 4-806. Strikes and unions.

4-801. Outside employment. No full-time employee of the municipality may accept any outside employment, including self employment, without written authorization from their department head. The department head shall not grant such authorization if the work is likely to interfere with the satisfactory performance of the officer's or employee's duties, or is incompatible with his municipal employment, or is likely to cast discredit upon or create embarrassment for the municipality. Any determination made by the department head under this section, may be appealed to the mayor. If agreement on determination cannot be reached, appeal may be taken to the board. (as replaced by Ord. #200801, Jan. 2008)

4-802. Use of municipal time, vehicles, facilities, etc. No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other persons, group, or organization other than the municipality. Provided, however, that this prohibition shall not apply where the governing body has authorized the use of such time, facilities, equipment, or supplies, and the municipality is paid at such rates as are normally charged by private sources for comparable services. Decisions about aid to charitable, civic or other organizations will be made exclusively by the board. (as replaced by Ord. #200801, Jan. 2008)

4-803. [Deleted.] (as replaced by Ord. #200801, Jan. 2008, and deleted by Ord. #201102, March 2011)

4-804. [Deleted.] (as added by Ord. #200801, Jan. 2008, and deleted by Ord. #201102, March 2011)

4-805. Use of position. No city officer or employee shall make or attempt to make private purchases, for cash or otherwise, in the name of the city, nor shall otherwise use or attempt to use their position to secure unwarranted privileges or exemptions for himself or others. (as added by Ord. #200801, Jan. 2008)

4-806. Strikes and unions. No city officer or employee shall participate in any strike against the city, nor shall they join, be a member of, or solicit any other municipal officer or employee to join any labor union that authorizes the use of strikes by government employees. (as added by Ord. #200801, Jan. 2008)

CHAPTER 9**ETHICS POLICY****SECTION**

4-901. Ethics policy.

4-901. Ethics policy. (1) All employees of the city shall comply with the City of Lexington Ethics Policy. The "Ethics Policy"¹ shall be and is hereby adopted by reference as part of this title and shall become a part of the municipal code of the City of Lexington, Tennessee.

(2) Should any section, paragraph, sentence, clause or phrase of this policy, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of the policy be pre-empted by state or federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this policy or its application to other persons or circumstances. (as replaced by Ord. #200801, Jan. 2008)

¹Ord. #200704 is available in the office of the city recorder.

CHAPTER 10**DRUG POLICY****SECTION**

4-1001. Drug policy.

4-1002--4-1003. [Deleted.]

4-1001. Drug policy. (1) All employees in safety-sensitive positions (such as gas employees, equipment/vehicle operators that require a commercial driver's license, etc.) are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, title V) and the Natural Gas Pipeline Safety Act (49 CFR Part 199).

(2) All employees of the City shall comply with the City of Lexington Drug Policy. The "Drug Policy for Employees of the City of Lexington, Tennessee"¹ shall be and is hereby adopted by reference as part of this title and shall become a part of the municipal code of the City of Lexington, Tennessee.

(3) Should any section, paragraph, sentence, clause or phrase of this policy, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of the policy be pre-empted by state or federal law or regulation, such decision or legislation shall not affect the validity of the remaining portions of this policy or its application to other persons or circumstances. (as replaced by Ord. #200801, Jan. 2008)

4-1002--4-1003. [Deleted.] (as deleted by Ord. #200801, Jan. 2008)

¹State law reference

Ordinance Number 200001 is on file in the office of the city recorder.

CHAPTER 11

COMMUNICATION SYSTEMS POLICY

SECTION

4-1101. Purpose and definitions.

4-1102. Uses.

4-1101. Purpose and definitions. All computer electronic mail (e-mail), and telephone communication systems, including voice mail, and all communications and information transmitted by, received from, or stored in these systems are the property of the City of Lexington. Communication by email is encouraged when it results in the most efficient and/or effective means of communication. All employees are to use email and internet as they would any other type of official city communication tool. The city has the right to access all communications and information sent over its communications systems and monitors the use of such systems at any time. (as replaced by Ord. #200801, Jan. 2008)

4-1102. Uses. (1) While the city provides these communication sources and encourages their use, certain restrictions are necessary to avoid improprieties and to avoid possible adverse public perceptions. City information network resources are not to be used to solicit others for commercial ventures religious or political causes. Nor shall these resources be used for illegal, harassing, libelous or obscene purposes during or outside city business hours. These resources shall not be used in any manner that would violate the property rights of others, including unauthorized copyrighted text, images or programs, trade secrets or other confidential proprietary information or trademarks or service marks used in any infringing fashion. There is to be no transmission or use of email or other communications that contain inflammatory messages, ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on their race, national origin, sex, age, disability or religious beliefs or practices. Violation of this policy may result in disciplinary action.

(2) Personal use of communication equipment is only permitted with the following conditions:

(a) Employee should be aware that any use is subject to all provisions of this policy.

(b) There must be no cost to the City of Lexington.

(c) It does not interfere with the employee's ability to carry out the city's business in an efficient manner.

(d) Use must not interfere with the ability of other employees to do their jobs.

(e) Use of the city's communication devices is prohibited for the purpose of conducting outside business.

(f) Individuals who are not employees, volunteers or contractors of the city are not permitted to use the city's communication devices unless it is for the benefit of the City of Lexington or an emergency.

(g) Personal use should be of minimum nature and shall not be conducted when customers are waiting for service.

(h) Use of the phones for simply chatting and/or gossiping during work schedule is strictly forbidden.

(i) Use of the internet for simply chatting and/or personal entertainment during work schedule is strictly forbidden.

(j) None of the above is intended to prevent the use of the city's communications systems for an emergency either personal or otherwise. (as added by Ord. #200801, Jan. 2008)

CHAPTER 12

REPRIMANDS AND DISMISSALS

SECTION

- 4-1201. Reprimands.
- 4-1202. Disciplinary action.
- 4-1203. Oral reprimand.
- 4-1204. Written reprimand.
- 4-1205. Suspension.
- 4-1206. Dismissal.
- 4-1207. Appeals process.

4-1201. Reprimands. The mayor, having general supervision of all employees of the City of Lexington, may suspend any employee for misconduct or dereliction of duty as a means of reprimand. (as replaced by Ord. #200801, Jan. 2008)

4-1202. Disciplinary action. Employees are expected to maintain high standards of conduct, cooperation and efficiency in their work. 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: oral reprimand, written reprimand, suspension, and dismissal. All disciplinary action taken will be scheduled through and witnessed by the personnel director with records of all disciplinary action taken being maintained in the personnel files in the personnel department. (as replaced by Ord. #200801, Jan. 2008)

4-1203. Oral reprimand. Whenever an employee's performance, attitude, work habits, or personal conduct fall below a desirable level, the department head or his/her designee shall inform the employee 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 further disciplinary actions. The department head, with the personnel director as witness, will 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. (as replaced by Ord. #200801, Jan. 2008)

4-1204. Written reprimand. (1) 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 sent to the employee, and a copy shall be placed in the employee's personnel folder. The department head or his/her designee administering the reprimand shall 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 corrective actions shall be taken.

(2) At the conclusion of a conference with the employee, a copy of the written reprimand shall be placed in the employee's personnel folder. It is recommended that the affected employee sign the written reprimand to indicate that they have seen the document and to acknowledge receipt of the employee's copy. Should the employee refuse to sign the written reprimand, the department head and personnel director, as witness, will sign and date the form and so indicate the employee's refusal to sign. (as replaced by Ord. #200801, Jan. 2008)

4-1205. Suspension. An employee may be suspended by their department head. All suspensions shall be without pay. The suspension will not exceed a total of fourteen (14) days in any twelve (12) month period. Pursuant to the appeals procedures, a written statement of the reason for suspension shall be submitted to the affected employee within twenty-four (24) hours of the effective date and time of suspension. The employee can be granted a hearing before the board upon request, pursuant to the appeals process. An employee determined to be innocent of the charges shall be returned to duty with full pay for the suspension period. All records associated with a suspension shall become a permanent part of the employee's personnel file. (as replaced by Ord. #200801, Jan. 2008)

4-1206. Dismissal. (1) The department head, with witness and direction of personnel director, may dismiss or demote an employee for just cause that is for the good of the city service, for no cause, or for any cause as long as it does not violate federal and/or state law or the municipal code. Reasons for dismissal may include, but shall not be limited to: misconduct, negligence, incompetence, insubordination, unauthorized absences, falsifying records, or violating any of the charter provisions, ordinances, or these rules. Examples include:

- (a) Incompetence or inefficiency in performing duties.
- (b) Conviction of a criminal offense or of a malfeasance involving moral turpitude.
- (c) Violating any lawful and reasonable regulation, order, or direction made or given by a superior, or insubordination that constitutes a serious breach of discipline.

(d) Being intoxicated, drinking any intoxicating beverages, or being under the influence of a drug or narcotic while on duty.

(e) Theft, destruction, carelessness, or negligence of city property.

(f) Disgraceful personal conduct or language toward the public, fellow officers, or employees.

(g) Unauthorized absences or abuse of leave privileges.

(h) Incapacity to perform the essential functions of a job because of a permanent or chronic physical or mental defect that cannot be reasonably accommodated.

(i) Accepting any valuable consideration that was given with the expectation of influencing the employee in performing their duties.

(j) Falsifying records or using official position for personal advantage.

(k) 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 their duties.

(l) Violating any of the provisions of the city charter, personnel ordinance, or these rules.

(2) The above is to be considered as examples of inappropriate employee behavior and not all-inclusive. Other situations not listed above may subject employees to corrective action, up to and including discharge. (as replaced by Ord. #200801, Jan. 2008)

4-1207. Appeals process. Any city employee reprimanded, suspended, or dismissed may submit a request in writing to the mayor, asking for a review by the board on the action. An employee must submit the request for an appeal within five (5) calendar days of receiving notification of the disciplinary action and must also state their intent to have representation and to name the representatives. The mayor shall schedule a hearing within ten (10) days of receiving the employee's request for appeal. The action of the board shall be final and binding on all parties involved. (as replaced by Ord. #200801, Jan. 2008)

CHAPTER 13

[Deleted]

(as deleted by Ord. #201406, Aug. 2014)

CHAPTER 14

PERSONNEL POLICY CHANGES

SECTION

4-1401. Policy changes.

4-1401. Policy changes. The provisions of this personnel policy may be unilaterally changed by ordinance of the governing body from time to time as the need arises. (as added by Ord. #200801, Jan. 2008)