

CITY OF MUSKEGON

PERSONNEL CODE

Draft
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DIVISION 1. GENERALLY

Sec. 13-14. Purpose.

It is the purpose of this article to establish personnel policies for all full-time and part-time employees of the city. Where provisions of this article differ from the provisions of an existing collective bargaining agreement or established written departmental rules and regulations, the provisions of the collective bargaining agreement or rules and regulations shall supersede the provisions of this article for bargaining unit and affected personnel.

Sec. 13-15. Definitions.

As used in this article, the following terms shall have the meanings ascribed to them:

Appointing Authority: The City Manager or his/her designee.

Allocation: The act of assigning a position to its appropriate class based on the duties performed.

Anniversary Date: The date an employee begins full-time regular work with the City of Muskegon. An employee's anniversary date will change upon discontinuation of employment for other than an authorized leave.

Class: A group of positions sufficiently similar with respect to duties and responsibilities that the same title can reasonably be used to designate each position in the class, that substantially the same tests of fitness may be required, and that the same schedule of compensation may be made to apply with reasonable equity.

Class Description: A written description of a class, consisting of a title, a definition, examples of duties and employment standards.

Classification Plan: An orderly plan under which positions, on the basis of duties and responsibilities, are grouped into classes, each class designated by a descriptive title and defined by a class specification.

Demotion: The movement of an employee to either a class having a lower pay range or to a lower step in the existing pay range or from full-time to part-time in the same position.

Employee: A person holding a position in the city service.

Employee Selection: All actions taken by the city to examine, test and evaluate applicants for positions within the city service. Selection begins at the time an applicant files his/her application and ends when the probationary period has been completed.

Full-Time Employee: An employee who has completed his/her designated probationary period and who occupies a full-time position.

Full-Time Position: A group of duties and responsibilities requiring the full-time employment of one (1) person for thirty-seven and one-half (37 1/2) or more hours per week on a regular schedule throughout the year.

Initial Appointment: The first selection of a person to a specific position.

Merit Pay Adjustment: An increase in pay that occurs based on positive performance.

Outside Employment: Employment of any kind engaged in by a city employee for which compensation is received from a source other than the city.

Part-Time Position: A group of duties and responsibilities requiring the part-time employment of one (1) or more person on a regular schedule throughout the year.

Part-Time Employee: An employee who has completed his/her designated probationary period and who occupies a regular part-time position.

Pay Range: The minimum and maximum pay rates, together with any intermediate rates, established for each class.

Pay Plan: A schedule of pay ranges for each class within the city service.

Probationary Employee: A newly appointed employee who has not completed his/her designated probationary period for the position s/he occupies. During such period, s/he may be separated from the municipal service without recourse to appeal.

Probationary Period: A trial period considered as an integral part of the induction process, during which a new employee is required to demonstrate his/her fitness for the position prior to receiving an appointment.

Promoted Probationary Employee: An employee who has not completed his/her probationary period for his/her new position and who retains his/her regular status in his/her former position during his/her probationary period.

Promotion: Any movement of an employee from a position in one class to a position in another class having a higher maximum salary rate.

Promotional Probationary Period: A trial period for a promoted employee during which s/he is required to demonstrate his/her fitness for his/her new position prior to receiving a regular appointment to the position.

Reclassification: The movement of an employee to a different class because of a change in duties and responsibilities.

Restoration: The return of a promoted probationary employee to his/her former position, either during or at the completion of his/her promotional probationary period.

Suspension: The temporary removal with or without pay of an employee from his/her designated position.

Temporary Employee: An employee who occupies a temporary or seasonal position.

Temporary Position: A group of duties and responsibilities requiring the temporary or seasonal employment of one (1) or more persons on either a full- or part-time basis.

Termination: A complete separation from municipal employment resulting from discharge, resignation, retirement or death.

Transfer: The movement of an employee to either a different department or division within the same pay range.

Secs. 13-16—13-20. Reserved.

DIVISION 2. CLASSIFICATION PLAN

Sec. 13-21. Establishment.

The classification plan shall consist of the class titles and class specifications which are approved by the city manager upon recommendation of the human resources director, and are from time to time amended and revised.

Sec. 13-22. Administration.

The classification plan shall be administered and maintained by the city manager, and employees shall be allocated by him/her to classes on the basis of the duties and responsibilities of the positions in relation to the criteria established in the class specifications.

Sec. 13-23. Class titles.

The official class titles shall be used in all personnel accounting, budget and financial records. No person shall be appointed to or employed in a full-time or part-time position in the city service under a title not included in the classification plan.

Sec. 13-24. Reporting changes in position.

Whenever a department head proposes the establishment of a new position or makes a significant change in the duties and responsibilities of an existing position, the facts shall be reported to the city manager. If the city manager approves the establishment or change in position, the position shall be allocated to one (1) of the existing classes or a new class created in the manner prescribed in this division.

Sec. 13-25. Reclassification.

A request for reclassification may be originated by an employee or by his/her supervisor. Such request may be initiated if it is believed that the existing classification does not reasonably describe the duties and responsibilities of work actually being performed. The request shall first be submitted to the department head, who shall forward the request, along with his/her recommendation, to the city manager within twenty (20) days from the date the request was received in his/her office. The city manager shall conduct such investigation as s/he deems proper and shall then approve or deny the request within thirty (30) days from the date the request was received in his/her office.

Sec. 13-26. Status of incumbents.

It shall be the general policy that where possible, the incumbent of a position reallocated in an individual case or as part of the adoption of a new classification plan shall gain status in the new class.

Sec. 13-27. Interpretation of class specifications.

Class descriptions are to be interpreted in their entirety in relation to others in the classification plan. A description of certain duties shall not be interpreted to exclude others not mentioned that are of similar kind and level. Qualifications expected of all incumbents of positions, such as a valid driver's license if the position requires driving; satisfactory physical condition; physical ability which, in the opinion of the city's physician, would not prohibit him/her from performing essential job functions; honesty; sobriety; courtesy; and industry, shall be deemed to be implied in the qualification requirements of each class, even though not specifically mentioned in the class specification.

Secs. 13-28—13-32. Reserved.

DIVISION 3. RECRUITMENT AND SELECTION

Sec. 13-33. Generally.

It shall be the policy of the city to carry on such recruitment programs as necessary to seek out and secure the most qualified individuals to apply for city positions at all levels of the city service.

Sec. 13-34. Eligibility to compete.

Competition for positions in the city service shall be open to all applicants who meet the qualifications established for the class of position for which application is made. The city is an equal opportunity employer whose policy is to recruit and select personnel and conduct all personnel activities without regard to religion, race, color, national origin, age, sex, height, weight, marital status, or disabilities.

Sec. 13-35. Present employees.

Present employees shall be encouraged to apply for vacancies for which they qualify.

Sec. 13-36. Examination methods.

In making a selection from among candidates to fill city vacancies, the city may use written, oral or performance tests, and evaluation of training and experience, a combination of these, or none of these. Investigations of character, personality, education, experience or physical fitness may also be made as deemed appropriate.

Secs. 13-37—13-42. Reserved.

DIVISION 4. APPOINTMENTS AND PROBATIONARY PERIOD

Sec. 13-43. Appointment procedure.

The city manager may fill, upon the recommendation of the department head, position vacancies by transfer, by demotion, by promotion or by original appointment. All appointments shall be made solely on the basis of merit and fitness as related to the established qualifications.

- (1) *Transfer:* The city manager may transfer any full-time or probationary employee from one position to another position in the same class or from a position in one class to a position in another related class in the same pay grade.

- (2) *Demotion:* An employee who becomes physically or mentally incapacitated and is unable to perform the duties and responsibilities of his/her position, or for other personal reasons related to his/her ability to perform his/her duties, may be demoted to a position in a lower class. Such demotion may be permitted upon approval of the appointing authority.
- (3) *Initial appointment:* Recommendation for appointment to a position shall be made by the department head to be effective upon approval of the city manager. Appointments to department head positions shall be made by the city manager except as otherwise provided by the City Charter. Experience gained by part-time hourly employees shall be taken into consideration in making appointments to full-time positions.

Sec. 13-44. Probationary Period.

All original and promotional appointments in the city service shall be subject to the serving of a probationary period which shall be considered a part of the selection process.

- (1) *Length of probationary period:* A probationary period shall be for either six (6) months or for one (1) year. Classes shall be assigned to one-year probationary periods at the discretion of the city manager.
- (2) *Reports of performance on probationers:* The department head of a probationer shall file with the human resources director a report of performance on a regular basis. Copies of these performance reports shall be reviewed by the employee, and it shall be the duty of the department head to provide for the training of and to assist the employee in meeting the standards of performance of the position to which s/he has been appointed.
- (3) *Rejection of probationary employee:*
 - a. It shall be the responsibility of the appointing authority, upon recommendation of the department head at any time during the probationary period, to reject a probationer if his/her conduct, capacity, responsibility, integrity, or work performance is found to be unsatisfactory.
 - b. Rejection of any employee during a probationary period is accomplished by the filing by the department head with the human resources director of all performance reports due, report of recommended separation for the probationary employee, and approval of the city manager.
 - c. If action is not taken by the human resources director to report to the probationary employee that s/he has not qualified for full-time status before the close of business of the last day of the probationary period, the

employee shall be considered to have successfully completed his/her probationary period and have acquired status.

- d. A full-time employee who vacated his/her position to accept a probationary appointment to a class in a higher level and who is rejected during the probationary period shall be reinstated in his/her former position.

Secs. 13-45—13-49. Reserved.

DIVISION 5. TRAINING AND EVALUATION OF PERFORMANCE

Sec. 13-50. Duties of department heads.

Each department head shall be responsible for the provision of orientation, employee selection, on-the-job training, and for the continuing development of each employee under his/her direction. The human resources director shall cooperate with and assist department heads in carrying out their responsibilities, and in meeting any special training needs.

Sec. 13-51. Evaluation of employee performance.

- (1) Each department head shall provide for an evaluation on a regular basis of all full-time and part-time employees in his/her department in achieving the standard of work performance required. In addition, evaluations shall be made during the probationary period, as provided herein. These evaluations shall include a discussion between the employee and his/her immediate supervisor for the purpose of determining goals and evaluating progress toward better performance and personal development. A record of the results of these discussions shall be forwarded to the department head by the supervisor on forms prescribed by the human resources director. The evaluations will be forwarded to the human resources director and the city manager.
- (2) Each employee shall review a copy of the evaluation form prepared by his/her supervisor regarding his/her progress.

Sec. 13-52. Safety.

The city shall use its reasonable best efforts to furnish and maintain a safe work environment. The city shall comply with applicable mandatory occupational safety and health standards.

Each employee shall also be responsible for complying with occupational safety and health standards. No employee shall in any way alter a safety device or interfere

with the use of a safety device. Employees shall follow safety rules, take no unnecessary chances, use all safeguards and safety equipment and make safety a part of their jobs.

Secs. 13-53—13-58. Reserved.

DIVISION 6. PAY PLAN AND COMPENSATION

Sec. 13-59. Establishment of pay plan.

The city commission shall determine the pay and fringe benefit plans for employees and may amend the pay and fringe benefit plans from time to time. The pay and fringe benefit plans shall be reexamined annually by the city manager, who shall submit recommendations for changes to the city commission. In making such reexaminations and recommendations, the city manager shall give appropriate consideration to the following factors:

- (1) The maintenance of equitable relationships between classes, based on their relative duties and responsibilities;
- (2) The general level of rates in the appropriate labor markets for comparable work under similar working conditions;
- (3) Current recruitment and retention experiences;
- (4) Other pertinent factors as recommended by the human resources director.

Sec. 13-60. Total compensation.

The rates of pay set forth in the pay schedule are for full-time and part-time employment, and represent the total salary compensation in every form, except as otherwise provided within this division.

Sec. 13-61. Special fees.

Total compensation and other authorized pay increments shall be in lieu of any special fees or compensation which an employee or officer may be authorized by law to collect. Such fees or other compensation shall be paid to the city treasurer in full, as soon as practical, as required by the finance director. Any city officer or employee who shall fail to pay over to the city treasurer any fees or other compensation as required by the finance director shall be subject to discipline.

Sec. 13-62. Part-time employment.

An employee who works a fixed proportion of the established work week shall be paid that proportionate part of the appropriate bi-weekly rate.

Sec. 13-63. Pay plan administration.

The city manager shall be responsible for administering the pay plan according to the following provisions:

- (1) *Beginning salary rate:* The beginning rate for a new employee normally will be the minimum rate in the established grade for his/her classification. In unusual situations, a pay rate above the minimum rate may be authorized to:
 - a. Meet difficult recruiting problems or to obtain a person with markedly superior qualifications;
 - b. Correct salary inequities or give credit for prior service;
 - c. Recognize outstanding performance.
- (2) *Method for within-grade salary increases:* After appointment or promotion, an employee shall be eligible for step increases as follows:
 - a. Employees shall after appointment or promotion be eligible for pay increases in accordance with the salary schedule as set by the city commission.
- (3) *Requirements for merit pay increases:* For each employee to become eligible for an increase in pay, the department head for whom the employee works shall provide a written performance report to the city manager at least twenty (20) days prior to the review date as to the manner in which the employee has performed his/her assigned duties since the original appointment or last advance in pay and shall submit a written recommendation to the city manager that the employee be granted or denied an advance in pay. If the employee's work has been properly and diligently performed, has been satisfactory in light of the length of service in the position and has shown the improvement normally to be expected with increasing periods of service and other factors considered relevant to employment, the department head shall recommend that the employee be granted the next regular increase in pay. If, in the judgment of the department head, the employee's work has been below the standards that are expected, s/he shall recommend that no increase be granted. The city manager shall authorize or deny pay increases for municipal employees as recommended by department heads, unless in his/her opinion and based on supporting information, the recommendation is unsound. In those cases where it is recommended that an employee be denied an increase in pay, the human resources director shall notify the employee in writing of the recommended action, including the reasons therefore.

- (4) *Date of salary increase:* Scheduled pay increases shall be made effective on the date which the required qualifying service and compliance with the other conditions of eligibility set forth in subsections (2) and (3) are completed.
- (5) *Demotion pay:* Upon demotion, an employee normally shall receive a one-step decrease in pay; however, it shall be the responsibility of the city manager in each instance to determine the amount of the pay decrease, if any, upon demotion of an employee.
- (6) *Promotion pay:* Upon promotion, an employee shall be placed in the first step of his/her new pay grade except that in cases where the first step would not be a one-step pay increase, the promoted employee shall be placed in such step in the new pay grade as may be recommended by the human resources director. In unusual circumstances, starting pay for promotions can be adjusted as for the beginning rate for new employees as specified in subsection (1). Upon completion of six (6) months of service, the provisions of subsection (2) and (3) shall apply to the promoted employee.
- (7) *Reclassification pay:* Upon reclassification to a class having a higher pay grade, an employee shall normally receive not less than a one-step pay increase.
- (8) *Change of class in pay grade:* Upon the movement of a class to a higher pay grade, all employees in the class at the time of the change shall be placed in the same step in the new grade as they occupied in the old grade. Upon the movement of a class to a lower pay grade, the employees in the class at the time of the change will not be reduced in pay unless such action is specifically called for by the resolution moving the class to a lower pay grade.
- (9) *Training pay:* The city manager may authorize the payment of compensation to employees who are required to participate in authorized training programs which take place outside their regular work schedule.

Sec. 13-64. Longevity pay.

Full time employees who have performed continuous service for the required number of years shall be eligible to begin accruing longevity pay at the beginning of the payroll period in which the required number of years has been completed. Employees who are not covered by a collective bargaining agreement are eligible for longevity pay in accordance with this section.

- (1) *Continuous service:* Continuous service shall be terminated by resignation, dismissal or retirement. If an employee so terminated receives a subsequent reappointment, s/he shall not be given longevity pay for service prior to the termination. Continuous service shall not be considered broken if an employee:

- a. Is on military leave of absence and returns to city employment in accordance with federal and state law and city policy;
 - b. Is on authorized leave of absence of less than 30 calendar days or on a temporary suspension of less than 30 calendar days without pay. However, no credit shall be allowed for the time toward the accumulation of service by employees suspended or on leave without pay, and additional time equal to the loss of service must be served to qualify for longevity.
- (2) *Amount of payment:* Eligible employees shall receive longevity payments based on a schedule set by the city commission. Longevity increments shall be paid in addition to regular compensation and will be paid semiannually.
- (3) *Limitations:* An employee who is suspended, on leave of absence without pay, or otherwise off the payroll shall receive no longevity pay for such period.

Sec. 13-65. Clothing.

The city manager shall determine within budget limitations the extent to which uniforms or special items of clothing are provided to various classes of city employees, excluding those employees covered by a collective bargaining agreement. This includes the granting of pay in lieu of the provision of uniforms.

Sec. 13-66. Overtime pay and compensatory time off.

Overtime, Saturday, Sunday and Holiday Compensation: Overtime is all time worked which is in excess of the regularly scheduled hours of work for an employee, excluding exempt employees. It is the policy of the city that overtime, whether compensated for by cash payment or time off, be held to a minimum consistent with efficient operation and provision of essential services to the public. Whenever possible, work assignments should be made in such a way so as to avoid accumulation of overtime. The provisions of this section shall apply to full-time employees, consistent with the Federal Fair Labor Standards Act and the Department of Labor Wage and Hour Regulations.

(1) *Overtime:*

- a. Administrative employees: Department heads and division heads shall not receive overtime compensation either in the form of pay or time off, as described herein for other employees. The city manager may, however, grant reasonable periods of time off to department heads when s/he feels that such time off is warranted.

- b. Other Employees: Where these rules do not specifically prescribe an overtime compensation policy for certain groups of employees or where an employee's regular hours do not specifically fit within any of these policies, the city manager may prescribe the policy to be followed in cases which s/he feels warrant payment or time off.
- c. Office-based employees: The normal work day shall consist of seven and one-half (7½) hours per day. The normal work week shall consist of thirty-seven and one-half (37½) hours per week, Monday through Friday. Work hours are generally between 7:30 a.m. and 6:00 p.m.

(2) *Compensation:*

- a. For all hours accumulated between thirty-seven and one-half (37½) hours and forty (40) hours per work week, credit for actual time worked will be in the form of time off at the rate of one (1) hour granted for each hour worked. Unless extenuating circumstances prevail, time off shall be taken within ten (10) work days after it was earned.
- b. An employee shall receive the overtime benefits provided s/he works his/her full straight time scheduled work week, exclusive of (1) c., above. Paid holidays, sick leave, vacation leave, bereavement leave and other authorized time off, excluding disciplinary time off or other leave without pay, will be considered as time worked for the purpose of computing overtime and fringe benefits.
- c. Overtime shall be compensated at one and one-half (1½) times the employee's straight time hourly rate, or time off equal to one and one-half (1½) times each overtime hour worked, for the following reasons:
 - i. Hours worked in excess of forty (40) in one scheduled work week;
 - ii. Hours worked on recognized holiday;
- d. The manner of compensation shall be determined by the employee's department head. The department head shall consider staffing levels and needs of the city service before granting compensation as time off. Unless extenuating circumstances prevail, time off shall be taken within ten (10) work days after it was earned.

(3) *Saturday, Sunday, and holiday overtime:*

- a. Mandated overtime: If the city mandates that work be performed on a Saturday, Sunday or a holiday, each hour worked shall be compensated in pay at two (2) times the employee's straight time hourly rate, or by time off at the straight time hourly rate in an amount equal to two (2) times

each hour worked. If overtime is mandated but the employee elects to do the work on a Saturday, Sunday, or holiday, each hour worked shall be compensated in pay at one and one-half (1½) times the employee's straight time hourly rate, or by time off at the straight time hourly rate in an amount equal to one and one-half (1½) times each hour worked.

- b. The manner of compensation shall be determined by the employee's department head. The department head shall consider staffing levels and needs of the city service before granting compensation as time off. Unless extenuating circumstances prevail, time off shall be taken within ten (10) work days after it was earned.

- (4) *Usage of earned time off:* Requests for time off should normally be made before an employee is regularly scheduled to report for duty. In granting the time off, the department head shall consider needs of city service, staffing levels, and seniority if more than one (1) employee requests the same time off.

Secs. 13-67—13-78. Reserved.

DIVISION 7. ATTENDANCE AND LEAVE

Sec. 13-79. Work week.

The number of hours in the average work week for the various position classes shall be stipulated in the pay plan or respective collective bargaining agreement for bargaining unit employees. The specific arrangements and adjustment of the hours of the work week shall be the function of the department head and the city manager.

Sec. 13-80. Holidays.

Paid holidays as established by the city commission will prevail for full-time employees and shall be observed as set forth below. A holiday shall begin at 12:01 a.m. and end twenty-four (24) hours later at midnight. Only hours worked during such twenty-hour-hour period shall be compensated under the holiday pay provisions. All employees covered by collective bargaining agreements shall receive paid holiday provisions as stipulated in the respective collective bargaining agreements.

- (1) *Eligibility for paid holidays:* All full-time employees shall be eligible for paid holidays.
- (2) *Holidays falling on weekends:* Holidays which fall on a Saturday will be observed on the preceding Friday, and holidays which fall on a Sunday will be observed on the following Monday.

- (3) *Holidays occurring during leave of absence:* When a holiday comes during a leave of absence for which an employee receives compensation, the holiday will not be counted as part of the leave of absence, except in cases involving leave of absence for a work-related injury.

Sec. 13-81. Vacation leave.

Vacation leave with pay shall be granted as prescribed in this section.

- (1) *Eligibility for vacation leave:* All full-time employees shall be eligible for vacation leave upon accrual.
- (2) *Accrual of vacation leave:* Vacation leave shall be accrued as set forth by city commission.
- a. Employees on probationary appointment: An employee on probation shall accrue vacation during the probation period but shall be ineligible for such vacation until s/he has completed six (6) months of service. In the event of separation prior to appointment, they shall be ineligible for vacation payment. This provision shall not apply to the probationary period of a promoted employee.
 - b. Vacation leave shall not be accrued, accumulated, or paid to an employee for any time when the employee has not worked.
- (3) *Vacation leave administration:* Vacation leave shall be administered as follows:
- a. Full time employees: Vacation leave is eligible for use after six (6) months (beyond the probation period) of service.
 - b. Vacation accumulation: Vacation leave shall not be accrued accumulated, or paid to an employee for any time when the employee has not worked.
 - c. Vacation carry-over: Carry-over of vacation leave from one year to another is not a matter of right and can only occur if approved in advance by the department head and the city manager.
 - d. Usage: Requests for vacation leave must be made before an employee is regularly scheduled to report for duty.
 - e. Department head approval: All vacation leave schedules must be approved by the department head or designee. In approving such schedules, the department head shall consider the needs of the city service and the seniority and wishes of the employee.

- f. Vacation leave charges: The minimum increment for vacation use shall be four (4) hours.
- g. Holidays occurring during vacation period: When a holiday occurs during an employee's assigned vacation and the employee is regularly entitled to the holiday, it will not be counted as part of the vacation leave.
- h. Terminal vacation: Accrued but unused vacation leave will be paid upon honorable termination.

Sec. 13-82. Sick leave.

Sick leave with pay shall be granted as follows:

- (1) *Eligibility for sick leave:* All full-time employees shall be eligible for sick leave.
- (2) *Accrual of sick leave:* Sick leave shall be accrued as follows:
 - a. Full-time employees: Sick leave shall be accrued by all full-time employees at the rate of 3.6923 hours bi-weekly, not to exceed twelve (12) days per year, with a maximum accumulation of one hundred and thirty-two (132) days.
 - b. Employees on probationary appointment: Probationary employees shall accrue sick leave during the probation period but shall be ineligible for such sick leave until they have completed the probationary period. In the event of their separation prior to their appointment, they shall be ineligible for sick pay. This provision shall not apply to the probationary period of a promoted employee.
- (3) *Sick leave bank / compensation:*
 - a. Any employee who has accumulated more than one hundred and thirty-two (132) days of unused sick leave will be compensated on an annual basis for fifty (50) percent of the accumulated, but unused, sick time in excess of one hundred and thirty-two (132) days. This compensation will be paid on or about January 31 of the year following the accumulation.
 - b. An employee may elect to contribute, on an annual basis, one hundred percent (100%) of the accumulated, but unused, sick time in excess of one hundred thirty (132) days into a deferred savings plan as adopted by the city commission.

- c. Sick leave cash-out: An employee who accumulates a minimum of one hundred and sixty (160) hours unused sick leave will be eligible to “cash out” a portion of the accumulated, but unused, sick leave. On an annual basis, employee may elect to receive cash payment for the number of hours to be cashed out computed at fifty (50) percent the straight time hourly rate; or, place one hundred (100) percent the number of hours to be cashed out at the straight time hourly rate into the city’s deferred compensation programs, Roth IRA or Michigan Education Savings Program.

(4) *Reasons for granting use of sick leave:*

- a. Physical incapacity not incurred in the line of duty.
- b. Personal illness, including medical and dental appointment during work hours. Medical and dental appointments shall have prior approval of the department head.
- c. Up to twelve (12) days for injury or illness in an employee’s immediate family which requires presence away from work. Immediate family will include spouse, children, grandchildren, parents, grandparents and parents-in-law.
- d. Attendance at funerals with prior approval.

(5) *Sick leave administration:*

- a. Requests: Requests for sick leave should normally be made before an employee is regularly scheduled to report for duty.
- b. Doctor’s certificate: Department heads and the human resources director have the right to verify the reported sickness of an employee, and may require a doctor’s certificate for absence due to sickness. The certificate must give sufficient information to determine whether the employee has been incapacitated for work for the period of absence.
- c. Sick leave charges: Sick leave shall be chargeable only when used on regularly scheduled work days or work periods. The minimum increment of sick leave use shall be one (1) hour.
- d. An employee while on paid sick leave will be deemed to be on continued employment for the purpose of computing all benefits referred to in this Article and will be construed as days worked specifically.

- e. Holidays during sick leave: When a holiday occurs during an employee's sick leave and the employee is regularly entitled to the holiday, it will not be counted as part of the sick leave time.
- f. Retention: Sick leave accruals shall be retained by an employee in each of the following cases: an employee who is absent on authorized leave of absence; an employee who transfers from one classification or department to another; an employee who is called from a layoff.
- g. Separation: Upon termination under honorable conditions, the employee will be compensated in pay for fifty (50) percent of accumulated unused sick leave, provided the employee has worked a minimum of twelve (12) consecutive months.

Sec. 13-83. Injury leave.

Leave of absence may be granted to full-time employees who become incapacitated as a result of injury or occupational disease incurred through no misconduct of their own while in actual performance of duty.

(1) *During probationary period:* Probationary employees shall be ineligible for leave of absence during probation. This provision shall not apply to the probationary period of a promoted employee; however, the probation period shall be extended by the number of days employee is away from city service.

(2) *Compensation:*

- a. During injury leave of five (5) days or less: An employee disabled and absent from duty as a result of a service-connected injury incurred in the employment of the city, shall receive his/her straight time salary without deduction from accumulated sick leave for the period of said disability and absence, but not to exceed five (5) working days commencing with the date of injury. All Workers' Compensation payments received by the employee for this period shall be turned over to the city. This paragraph is limited to those situations where the city's physician requires the employee to be off work.
- b. Sick leave will be applied to lost time and deducted for service-connected disability other than that for which the employee receives Worker's Compensation insurance benefits for lost time, only upon receipt of a statement signed by the city physician to the effect that the injured employee is unable to perform the regular duties or such other temporary task available in the framework of city functions, in which event said employee's earned sick leave shall be used at a rate of one (1) sick leave day for each day of such service-connected disability until such sick leave accumulation has been exhausted.

- c. An employee's absence from duty due to a service-connected disability for which s/he is receiving Worker's Compensation benefits shall not be compensated for or deducted from his/her sick leave unless s/he shall elect to be paid the difference between the Worker's Compensation received by him/her for such service-connected disability and his/her normal wage or salary; in which event, said employee's earned sick leave shall be used at the rate of one-third (1/3) sick leave day for each day of such service-connected disability until such sick leave accumulation has been exhausted.
- d. An employee disabled and absent from duty as a result of a service-connected injury incurred in the course of employment with the city of Muskegon, who has exhausted their sick leave option, shall receive economic accruals as of that date, except as specifically stated in the following subparagraphs:
 - i. Seniority shall continue to accrue (for example, if the employee is injured in the course of his/her employment in his/her tenth (10th) year of employment and returns to work three (3) years later, his/her seniority shall be as a thirteen- (13) year employee).
 - ii. Sick leave shall not be accrued, accumulated, or paid to an employee for any time when the employee has not worked.
- e. In no event shall any employee who has been disabled and absent from duty as a result of a service-connect injury incurred in the course of employment with the city of Muskegon take vacation time off in any one year in excess of that provided in Article II, Section 13-82. Vacation leave. Any vacation days accumulated but not used prior to the injury in excess of the maximum under Article II, Section 13-82. shall be paid to the employee in the year the employee returns to duty.

Sec. 13-84. Leaves for jury duty, attendance at conventions and other business-related activities.

- (1) *Jury duty:* An employee who is summoned and reports for jury duty as prescribed by applicable law shall be paid by the employer an amount equal to the difference between the amount of wages the employee otherwise would have earned on that date and the daily jury duty fee paid by the courts, not including travel allowances or reimbursement or expenses for each day on which s/he reports for or performs jury duty and on which s/he otherwise would have been scheduled to work for the employer. The employee shall notify the department head as soon as possible of the date(s) of absence required by jury service. Jury duty includes witness service by subpoena. In most situations, an employee will continue to receive his/her regular paycheck

from the employer and will turn over checks for daily jury duty fees to the employer.

- (2) *Out-of-city conventions, training, meetings and business,:* Attendance at conventions, training, meetings and business trips to other cities shall be considered as time on duty, provided that such attendance is approved in advance, in writing, by the department head.

Sec. 13-85. Leaves for military leave.

- (1) The right to re-employment and the continuing seniority rights are guaranteed for any employee, now or hereinafter, upon the seniority list and who, now or hereafter, is a member of the Armed Forces of the United States, State of Michigan.
- (2) A leave of absence shall be granted to employees in the classified service for service in the defense of the country or who are members of the National Guard or militia or of the Reserve Corps or forces in the Federal Military, Naval, Marine or Coast Guard Service as authorized and provided for by the Veterans Preference Act of the State of Michigan, and privileges authorized by said Veterans Preference Act with respect to status and re-employment.
- (3) Whenever employees who are members of the National Guard, Naval Reserve, Army Reserve, Marine Reserve, or Air Force Reserve are called to active duty, they shall be entitled to a leave of absence, in addition to their annual vacation leave from their respective duties, for such time as they are engaged in active-duty defense training. Such leaves are not to exceed two (2) calendar weeks (ten (10) working days) per year. An employee is eligible to receive the difference between his/her military pay and his/her regular salary while on the two- (2) week training leave.

Sec. 13-86. Other leave.

- (1) *Bereavement leave:*
 - a. Family: In the event there is a death in the immediate family of an employee, consisting only of spouse, parent, grandparent, child, brother, sister, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandchild, and grandparent-in-law, and the employee attends the funeral service, such employee shall be granted up to three (3) consecutive work days leave of absence with full pay. If the funeral is on a Saturday or Sunday, the three (3) consecutive work days must commence no sooner than the Wednesday prior to the funeral and extend no later than the Wednesday after the funeral.

- b. Step-family: In the event there is a death in the step-family of an employee, consisting only of a step-parent, step-grandparent, step-child, step-brother, step-sister, step-mother-in-law; step-father-in-law, step-son-in-law, step-daughter-in-law, step-brother-in-law, step-sister-in-law, step-grandchild, and step-grandparent-in-law, and the employee attends the funeral service, such employee shall be granted up to two (2) consecutive work days leave of absence with full pay. If the funeral is on a Saturday or Sunday, the two (2) consecutive work days must commence no sooner than the Thursday prior to the funeral and extend no later than the Tuesday after the funeral.
 - c. Family, other: An employee shall be granted one (1) day absence with pay in the event of a death in the family of such employee other than herein set forth, which shall be taken on the day of the funeral, provided the employee attends the funeral service.
 - d. Friends and fellow employees: There shall be no bereavement leave for friends, other than fellow employees. Up to one (1) day special leave will be granted to attend the funeral of fellow employees. In the event a substantial number of employees of a particular department would ask for time off to attend the funeral of a fellow employee, the needs of the department will be of primary concern and the department head will consider the needs in determining the number of employees to receive time off.
 - e. Out-state or long distance: Up to five (5) days of accumulated unused sick leave maybe used by an employee each year for bereavement leave in order to attend the funeral service for any of those persons identified herein, provided that the employee is required to travel either outside the State of Michigan or two hundred fifty (250) miles in order to attend the funeral service, and to provide documentation thereof.
 - f. Friends: An employee may use one of five (5) days (sick leave used for bereavement leave), set forth in e., above, each year to attend the funeral of a friend.
 - g. Payroll: Provided that twenty-four (24) hour notice is submitted, bereavement leave shall be credited to the pay period in which it is taken.
- (2) *Educational and other leaves of absence without pay:* Unpaid leaves of absence shall be approved or rejected be the city manager in accordance with applicable ordinances, Personnel Rules and Regulations and applicable statutes.

- (3) *Personal Leave:* All employees shall be eligible for thirteen (13) days off as a combination of holiday and personal leave days. The use of personal leave days is subject to notice of twenty-four (24) hours in advance of the date requested.
- a. New employees: After the first six (6) months of employment, an employee, shall be entitled to personal leave days on a pro rata basis
 - b. City hall based employees: After the first year of employment, an employee shall be entitled to two (2) personal leave days per year
 - c. Other employees: Employees who work at other than city hall shall have the holiday schedule consistent with the schedule at the building in which they work. After the first year of employment, an employee shall be entitled to the number of personal leave days that, together with the number of recognized holidays at their building, equal thirteen (13) days.
 - d. Forfeit: Personal leave days are not accumulative, but if requested and not granted, the days shall be compensated as a day's pay. If not requested, the days shall be forfeited.

Sec. 13-87. Absence without leave.

If an employee shall, without proper authorization, be absent from duty, whether for part or all of a working day or for a longer period, such absences may be grounds for disciplinary action or discharge. Absence without leave for a period of three (3) duty shifts may be considered cause for automatic termination of employment and separation from the city service.

Sec. 13-88. Unpaid family and medical leave.

The city shall grant leave pursuant to federal law and the City of Muskegon Family and Medical Leave Act Policy.

Secs. 13-89—13-92. Reserved.

DIVISION 8. GROUP INSURANCE

Sec. 13-93. Insurance benefits.

Hospital-medical-surgical-dental-optical-long term disability-term life insurance group plans are available for eligible city employees and their families under terms set by the city commission or respective bargaining agreements.

Sec 13-94. Eligibility for insurance plan benefits.

All full-time employees shall be eligible for all insurance plan benefits. Employees who retire at an age and after sufficient years of credited service to be eligible for full retirement benefits under the city's retirement plan (MERS) shall be eligible for hospitalization insurance only. Retiree benefits may be altered by the City Commission, in its sole discretion.

The total monthly premium for eligible employees shall be paid in accordance with city commission approval or respective collective bargaining agreement.

Secs. 13-95—13-102. Reserved.

DIVISION 9. RETIREMENT

Sec. 13-103. Retirement.

Full-time employees will be eligible to participate in the Michigan Employees Retirement System (MERS) programs, as approved by the city commission.

DIVISION 10. INCOMPATIBLE ACTIVITIES

Sec 13-104. Conflicting activities prohibited.

A city employee shall not engage in any employment, activity or enterprise which is inconsistent, incompatible or in conflict with his/her duties as a city employee, or with the duties, functions and responsibilities of the department by which s/he is employed.

Sec. 13-105. Types of incompatible activities.

The following activities shall include but are not intended to be an exhaustive list of those to be considered inconsistent, incompatible or in conflict with city employment:

- (1) Any employment, activity or enterprise which involves the use for private gain or advantage of the city's time, facilities, equipment or supplies, prestige, or influence of a city office or employment;
- (2) Any employment, activity or enterprise which involves the receipt or acceptance by the officer or employee of any money or other consideration from anyone other than the city for the performance of an act which the officer or employee would be required or expected to render in the regular course of his/her city employment, or a part of his/her duties as a city officer or employee;

- (3) Any employment, activity or enterprise which involves the performance of an act in other than his/her capacity as a city officer or employee which later may be subject, directly or indirectly, to the control, inspection, review, audit or enforcement by such officer or employee or the department by which s/he is employed;
- (4) Any employment, activity or enterprise which involves so much of the employee's time that it impairs his/her attendance or efficiency in the performance of his/her duties as a city officer or employee.

The city manager shall make a final determination, when necessary, as to whether a specific activity is incompatible.

Sec. 13-106. Political activity.

- (1) Persons holding a position as an employee of the city who accept a city elected office must resign his/her employment with the city. Nothing in this section, however, shall be construed to prevent any employee from becoming or continuing to be a member of a political organization, or from attending any political meeting or from expressing his/her opinions on political subjects and candidates or from enjoying entire freedom from all interference in casting his/her vote.
- (2) Any violation of the above prohibitions shall be sufficient grounds for the discharge of any employee guilty of such violation.

Sec. 13-107. Confidential information.

No city employee may divulge to any unauthorized person confidential information acquired in the course of employment with the city in advance of the time prescribed for its authorized release to the public.

Secs. 13-108 —13-111. Reserved.

DIVISION 11. DISCIPLINARY ACTIONS

Sec. 13-112. Warning and reprimand.

Whenever employee performance falls under one (1) of the causes for action listed in this division, his/her supervisor shall inform him/her promptly and specifically of such lapses. If appropriate and justified, following a discussion of the matter, a reasonable time for improvement or correction may be allowed before any further disciplinary action is initiated. In situations where an oral warning has not resulted in the correction of the condition or where more severe initial action is warranted, a written

reprimand shall be sent to the employee and a copy placed in the employee's personnel file.

Sec. 13-113. Suspension.

In those cases where one (1) or more written reprimands has not proven to be effective or in those cases where the seriousness of the events or conditions warrant it, an employee may be suspended without pay by his/her department head, with the approval of the city manager, for a period not to exceed thirty (30) calendar days for each offense for any cause listed in this division.

Sec. 13-114. Demotion and dismissal.

When other forms of disciplinary action have proved ineffective or where the seriousness of the offense or condition warrants it, the department head may demote or dismiss the employee for any cause listed in this division with the approval of the city manager.

Section 13-115. Causes for action.

Employees committing any of the following violations shall constitute sufficient grounds for disciplinary action, ranging from reprimand to immediate discharge:

- (1) Incompetency, inefficiency or negligence in the performance of duty;
- (2) Activity which has been determined to be incompatible with his/her employment, as provided in this article;
- (3) General misconduct, including insubordination, constituting a serious breach of discipline;
- (4) Unauthorized absence or abuse of leave privileges;
- (5) Acceptance of any valuable consideration from an individual or entity that the employee deals with in the employee's professional capacity;
- (6) Falsification of claims for benefits, leaves of absence, information on job applications, time records, reasons for illness, injury, reimbursements or other city records;
- (7) Use of his/her position for personal advantage;
- (8) Political activity as described in this article;
- (9) Willful violation of the provisions of law or of these rules;

- (10) Violation of city or written departmental rules;
- (11) Is guilty of unbecoming public behavior, i.e., misconduct or abusive language used in front of or directed toward the public;
- (12) Leaving the job during working hours without permission;
- (13) Reporting for duty under the influence of narcotics or intoxicating liquor, hallucinogenic, or found using any of these drugs or alcoholic beverages on the job;
- (14) Disregard of safety rules and common safety practices;
- (15) Abuse of coffee or lunch break;
- (16) The misuse or removal from the city premises, without appropriate prior authorization, of any city records, confidential information of any nature, or any city property;
- (17) The revelation of any confidential city records or other confidential city information without appropriate prior authorization;
- (18) Temporary or permanent loss of driver's license or any endorsement thereon when necessary for job performance;
- (19) Failure to report any personal injury while on duty or damage to city equipment immediately to an appropriate supervisor.

The foregoing rules are not intended to be all-inclusive of the proper standards of conduct which employees are expected to observe. The city may, as deemed appropriate, establish additional rules, and department heads may establish particular rules to govern employee conduct deemed necessary by operational requirements.

Section 13-116. Prohibition against illegal discrimination.

In all its programs and activities, the city shall not engage in discrimination which violates federal or state laws.

Section 13-117. Prohibition against sexual harassment.

City employees shall not engage in verbal, written or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, national origin, age, disability, height, weight, family status, marital status or veteran status, pursuant to the City of Muskegon Harassment Policy and Procedures.

Section 13-118. Drug and alcohol use.

It is the city's policy to maintain a workplace free of the influence of drugs and alcohol, pursuant to the City of Muskegon Administrative Regulations Governing Drug and Alcohol Use and Abuse.

Section 13-119. Violence in the workplace.

The city recognizes the need to provide for the safety and security of all city employees and visitors. The city will not tolerate threats, threatening behavior or acts of violence against employees, visitors, guests or other individuals by anyone on city property.

DIVISION 12. TERMINATION AND LAYOFFS

Sec. 13-120. Resignation.

An employee desiring to resign from city service may do so by notifying his/her department head and the human resources director in writing of the reason therefore and the effective date. Failure to give at least two (2) weeks' notice may be cause for denying subsequent employment with the city and loss of accrued unused sick leave, accrued unused vacation leave and accrued unused personal leave benefits.

Sec. 13-121. Layoffs.

Determination of which employees within a particular position classification shall be laid off shall be made by the city manager upon recommendation of the department head, taking into account the seniority, work record and other factors regarding the employees involved.

Secs. 13-122—13-127. Reserved.

DIVISION 13. APPEALS AND HEARINGS

Sec. 13-128. Procedure.

An employee who has a grievance may avail him/herself of the grievance procedure outlined in this division. The employee shall submit his/her appeal in the following sequence:

- (1) First step, his/her immediate supervisor;
- (2) Second step, his/her department head;

- (3) Third step, the personnel director;
- (4) Fourth step, the city manager, or his/her designate.

Employees serving an initial probationary period are in the selection process and do not have access to the grievance procedure until successful completion of that probationary period.

Sec. 13-129. Forms of appeals.

An appeal to an immediate supervisor shall be made within five (5) working days after an employee is notified of the decision. An appeal to an immediate supervisor may be either oral or in writing. It shall be in writing if either party so demands. A grievance presented in writing must be answered in writing. Should an employee choose to appeal from the decision of the immediate supervisor, such appeal shall be made in writing to each of the successive steps in the grievance procedure.

Sec. 13-130. Appeal.

The city manager, or designate, shall hear appeals from employees, except those who have not completed the prescribed probationary period or those covered by the provisions of a collective bargaining agreement

Sec. 13-131. Employee representation.

Employees shall be entitled to representation of their own choosing in appealing any grievance. Employees shall be entitled to one (1) representative at each step in the grievance procedure.

Sec. 13-132. Decision time limits for appeal.

All time limits shall refer to calendar days, exclusive of holidays, as called for in section 13-81. The decision in an appeal shall be made as follows:

- (1) *First step:* The decision in the first step of the appeal shall be rendered within five (5) days of presentation of the grievance. An employee shall have five (5) days after notification of the decision to appeal to the second step.
- (2) *Second step:* The decision in the second step shall be rendered within five (5) days of presentation of the grievance at the second step level. An employee shall have five (5) days after notification of the decision to appeal to the third step.
- (3) *Third step:* The decision in the third step shall be rendered within five (5) days of presentation of the grievance at the third step level. An employee

shall have five (5) days after notification of the decision of appeal to the fourth step.

- (4) *Fourth step:* The decision in the fourth step shall be rendered within ten (10) days of presentation of the grievance at the fourth step level. An employee shall have ten (10) days after notification of the decision to appeal to the final step.
- (5) *Failure to receive a decision:* Failure to receive a decision within the above-stated time limit shall entitle the employee to appeal at the next step.
- (6) *Failure to appeal:* Failure to appeal a decision rendered by management within the time limits shall be deemed settled on the basis of the city's last response.

Secs. 13-133—13-140. Reserved.