

COMMISSIONERS' ORDER/RESOLUTION NO. OR-46-05

AN ORDER/RESOLUTION ADOPTING PERSONNEL POLICIES AND PROCEDURES APPLICABLE TO ALL REGULAR, FULL-TIME, PART-TIME, PERMANENT, AND TEMPORARY EMPLOYEES IN THE CITY OF COVINGTON, EXCLUDING ELECTED OFFICIALS AND THE CITY MANAGER.

* * *

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That the following personnel policies and procedures are hereby adopted:

1. GENERAL POLICY.

(A) Purpose. These Personnel Policies and Procedures have been adopted to ensure the recruitment, development, and retention of the best employees for each position with the City of Covington. They provide for the orderly establishment of procedures for human resource management that adhere to the following principles:

(1) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills.

(2) Training employees to ensure high quality performance; and

(3) Ensuring equitable treatment of applicants and employees, in all aspects of human resource management, without regard to political affiliation, disability, race, color, age, national origin, citizenship, gender, or religion.

(B) Positions covered. These Personnel Policies and Procedures, unless otherwise noted, apply to all regular, full-time, part-time, permanent and temporary positions, with the exception of the elected officials and the City Manager.

(C) Responsibility and authority. The responsibility and authority for the implementation of these Personnel Policies is vested in the City Manager. The City Manager may delegate such duties and functions for the appropriate administration of these Personnel Policies and Procedures.

(D) Disclaimer. These Personnel Policies and Procedure are not a contract, but rather are general guidelines only, to which employees shall adhere to during their employment with the City of Covington. The City retains the discretion to amend these Policies at any time and the amendment shall become effective immediately upon adoption by the Board of Commissioners. All employment with the City of Covington is at-will and the City can terminate said employment at any time for any reason with or without cause, unless the at-will status is modified by contract or state law.

(E) Conflict. If any conflict exists between this policy and state law or collective bargaining agreement, the state law or collective bargaining agreements shall control.

(F) Severability. If sections of these Personnel Policies and Procedures are ever held invalid, the remaining sections shall not be affected and shall remain in full force and effect.

Cross-reference: Ethics Code, see Chapter 36 of the Covington Code of Ordinances.

2. EQUAL OPPORTUNITY AND TREATMENT.

(A) The city reaffirms its policy that discrimination on the basis of race, color, religion, creed, national origin, ancestry, political affiliation or beliefs, sex, disability, or age will not be practiced in any of its activities. There shall be no discrimination for or against any person.

(B) This policy of nondiscrimination covers all aspects of the city's personnel relationships, including hiring, promotions, transfers, training, job assignments, hours of work, rates of pay, working conditions, and all benefits and privileges. Proper regard will be given to the privacy of both applicants and employees. There shall be no discrimination among employees by virtue of participation or non-participation in union affairs. The philosophy underlying this policy is that equal opportunity is not simply a matter of legal requirement or necessity, but an obligation. In this regard every employee, official, and supervisor must accept personal responsibility for ensuring the continued success of the city's equal opportunity commitments.

3. DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

NON-UNIFORM EMPLOYMENT. Any employment with the city except as a uniformed police officer or firefighter.

PART-TIME EMPLOYEE. Any employee regularly scheduled to work less than 37½ hours per week.

FULL-TIME EMPLOYEE. Any employee hired under an open-ended resolution and regularly scheduled to work 37½ hours or more per week.

TEMPORARY EMPLOYEE or SEASONAL EMPLOYEE. Any employee whose term of employment is less than nine months.

4. PLACEMENT PROCEDURE.

(A) All applicants for nonuniform employment with the city should complete a city application form. Applicants who are considered for a position with the City should be screened by the Human Resources Department/Office.

(B) The city reserves the right to test applicants for any position. This testing can be written, oral, field, or any other means. It can also be any combination thereof.

(C) All positions will be open to persons who meet the necessary requirements. Such requirements may include, but will not be limited to, factors such as knowledge, skills, education, training, and ability to perform the essential functions of the job.

COMMISSIONERS' ORDER/RESOLUTION NO. OR-72-05

AN ORDER/RESOLUTION AMENDING COMMISSIONERS' ORDER/RESOLUTION NO. O/R-46-05, AS AMENDED, AT SECTIONS 5 AND 22 TO PROVIDE THAT EMPLOYEES WHO ARE ON DISCIPLINARY PROBATION SHALL NOT BE ELIGIBLE FOR PROMOTION UNTIL THEIR PROBATIONARY PERIOD HAS ENDED.

* * *

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That Commissioners' Order/Resolution No. O/R-46-05 is hereby amended at Sections 5 and 22 as follows:

5. PROBATIONARY PERIOD.

All new appointments, promotions, and transfers shall be for a probationary period of 12 months.

(A) Purposes. The purposes of a probationary period are:

(1) To evaluate the employee's progress in terms of work performance, attendance, conduct, cooperation, attitude, and similar traits; and

(2) To provide a period of training, close supervision, and counseling by the supervisor and to help the employee succeed.

(B) Progress report. With the assistance of the Human Resources Director, the immediate supervisor will evaluate the new employee once during the probationary period. The employee and immediate supervisor will discuss the employee's progress. The discussion can help to establish both a good relationship and good communications. It will also let the employee know that his or her day-to-day performance is being reviewed, and provide an opportunity to improve in the areas needed. At the end of the probationary period, performance ratings will be considered in determining whether or not the employee is to be retained.

(C) Discipline.

(1) The probationary period should be used to remove undesirable or unsuitable employees as soon as possible. Thus, we avoid wasting supervisors' and trainers' time. Furthermore, dissatisfied unqualified employees often spread their frustrations to others. This often causes poor morale. A newly appointed or newly promoted probationary employee may be suspended, terminated or transferred back to his or her original position during the probationary period.

(2) Employees who are placed on disciplinary probation are not eligible for promotion until their probationary period has ended. This includes promotional exams that create an eligibility list that will expire before the probationary period will end.

22. DISCIPLINARY ACTION.

(A) Following are some, but not all of, reasons that may result in disciplinary action:

- Incompetency
- Inefficiency
- Dishonesty
- Immoral (or improper) conduct
- Insubordination
- Neglect of duty
- Discourteous treatment of the public or fellow employees
- Absenteeism
- Habitual tardiness
- Violation of city or department rules
- Fighting or horseplay
- Failure to observe safety rules
- Abusive or obscene language
- Loafing or sleeping on the job
- Conviction on a criminal charge
- Intimidation of other employees or the public
- Absence from assigned work location without permission
- Use of any intoxicants or illegal drugs while on duty
- Reporting to work under the influence of intoxicants or illegal drugs
- Any other failure of good behavior or an accumulation of minor infractions

(B) Obviously, we cannot list reasons for disciplinary action to cover every situation; therefore, the types of violations are not restricted to this list. For those employees covered by the Kentucky Revised Statutes the disciplinary measures and procedures specified in the Kentucky Revised Statutes shall prevail in the case of any conflicts.

Statutory reference:

Civil service disciplinary procedures, see KRS 90.360

(C) The City may conduct work-related investigations of employee conduct and employees are expected to fully cooperate with such investigations. The City is permitted to search person(s) and/or their property when it has reason to believe that the search will reveal evidence of an employee's misconduct. The City is permitted to search its own property and premises, including, but not limited to, lockers, equipment, and City-owned vehicles.

(D) When an employee engages improper conduct, the employee's supervisor is authorized to take prompt corrective action. Such corrective action may vary from a verbal warning by the employee's supervisor to immediate suspension without pay by the department head or the City Manager. The seriousness and frequency of violations are the primary factors considered by management when determining disciplinary measures to be applied. The City retains the right to determine the form and severity of discipline imposed on employees and it is not bound to employ any form of progressive punishment. While progressive punishment may be employed at the discretion of a supervisor, this in no way prohibits the City or its supervisory personnel from dispensing discipline in a manner consistent with the seriousness of the offense committed, including but not limited to termination.

(E) A reprimand is best administered in private, whenever possible, and it is best administered without rancor. There should be little time lag between the offense and the reprimand.

(F) The date of verbal warnings should always be noted and placed in the employee's personnel folder, along with a description of the occurrence which prompted this warning and any comments the employee may have made. This is the responsibility of the person giving the verbal reprimand or warning.

(G) Written warning. A dated written warning should be given to the employee specifying the reason for such warning and noting any previous verbal or written warnings. This notification should state that the employee's performance will now be reviewed on a daily basis for improvement, and explain the consequences of continued infractions. Copies of these written reprimands should be forwarded to the Human Resources office.

(H) Disciplinary Probation. If additional time is needed to allow an employee to improve their performance due to a serious violation, or repeated minor violations, the department head or the City Manager can authorize a disciplinary probation. While under disciplinary probation the employee will be closely monitored and may be terminated if performance expectations are not met. The employee will not be eligible for promotion or testing until the disciplinary probationary period has ended.

(H I) Suspension. After either a serious violation, or repeated minor violations, the department head or the City Manager can authorize a suspension. If possible, a discussion should be conducted between the employee and the supervisor before any suspension is levied. The department head should notify the City Manager's office in writing as soon as possible with the reason for the employee's suspension, the number of days or hours of suspension, and the date and time the employee may return to work. A copy of this information shall be forwarded to the Human Resources office. A suspension by a department head can be for any period up to and including two calendar weeks. If the severity of the offense so warrants, the City Manager can authorize a suspension of up to six months.

(J) Dismissals.

(1) Where an offense is continually repeated, or misconduct is serious enough for discharge on the first offense, a department head may recommend to the City Manager that an employee be dismissed.

(2) The department or the City Manager shall give the employee a dated, written notice of his or her dismissal. This written notice shall contain one or more reasons or grounds for discharge, the date of the occurrence that provoked the discharge, and note any previous warnings and the dates of the same. The department shall send a copy to the Human Resources Director. Final and formal approval of the discharge shall come from the Mayor and Board of Commissioners. However, if the employee is still working under only the City Manager's approval, and has not been officially hired by the Commission, the City Manager can effectuate an immediate discharge if it is so warranted. Or, if the employee is still a probationary employee, the employee may be unilaterally dismissed by the department head or City Manager.

(K) Termination of benefits during suspension. If an employee is on suspension for more than 30 days, then and in that event, all rights to fringe benefits are terminated, including, but not limited to, vacation accrual, sick leave accrual, medical insurance, and life insurance.



Policy 800 Behavior Of Employees (Revised 11/8/02)

Policy:

It is the policy of the City of Covington that certain rules and regulations regarding employee behavior are necessary for efficient business operations and for the benefit and safety of all employees. Conduct that interferes with operations, discredits the City, or is offensive to citizens or coworkers will not be tolerated.

Comment:

(1) Employees are expected at all times to conduct themselves in a positive manner in order to promote the best interests of the City. Appropriate employee conduct includes:

- (a) Treating all citizens, visitors, and coworkers in a courteous manner;
- (b) Refraining from behavior or conduct that is offensive or undesirable, or which is contrary to the City's best interests;
- (c) Reporting to management suspicious, unethical, or illegal conduct by coworkers, citizens, visitors, or suppliers;
- (d) Reporting to management any threatening or potentially violent behavior by coworkers;
- (e) Cooperating with City investigations;
- (f) Complying with all City safety and security regulations;
- (g) Wearing clothing appropriate for the work being performed;
- (h) Performing assigned tasks efficiently and in accord with established quality standards;
- (i) Reporting to work punctually as scheduled and being at the proper work station, ready for work, at the assigned starting time;
- (j) Giving proper advance notice whenever unable to work or report on time;
- (k) Smoking only at times and in places not prohibited by City rules or local ordinances;
- (l) Maintaining cleanliness and order in the workplace and work areas

(2) The following conduct is prohibited and individuals engaged in it will be subject to discipline, up to and including termination (see DISCIPLINARYPROCEDURE, Policy 34.24):

- (a) Engaging in or threatening acts of workplace violence, including but not limited to:
 - (i) Possessing firearms or other deadly weapons on City property including concealed deadly weapons with the exception of personnel authorized under KRS.;
 - (ii) Fighting or assaulting a coworker, guest, or customer with the exception of safety officers in the line of duty; or in self-defense.
 - (iii) Threatening or intimidating a coworker, security guard, customer, or

- guest with the exception of safety officers in the line of duty;
- (b) Engaging in any form of sexual or other harassment, see 800A ;
 - (c) Reporting to work under the influence of alcohol, illegal drugs, or narcotics or using, selling, dispensing, or possessing alcohol, illegal drugs, or narcotics on City premises;
 - (d) Disclosing confidential City information;
 - (e) Falsifying or altering any City record or report, such as an employment application, medical reports, production records, time records, expense accounts, absentee reports, or shipping and receiving records;
 - (f) Stealing, destroying, defacing, or misusing City property or another employee's or customer's property;
 - (g) Misusing City communications systems, including electronic mail, computers, Internet access, and telephones;
 - (h) Refusing to follow management's instructions concerning a job-related matter or being insubordinate;
 - (i) Failing to wear assigned safety equipment or failing to abide by safety rules and policies;
 - (j) Soliciting or distributing in violation of City policies;
 - (k) Smoking where prohibited by local ordinance or City rules;
 - (l) Using profanity or abusive language;
 - (m) Sleeping on the job without authorization;
 - (n) Gambling on City property;
 - (o) Playing pranks or engaging in horseplay; and
 - (p) Wearing improper attire or having an inappropriate personal appearance.

(3) The examples of impermissible behavior described in Comment (2), above, are not intended to be an all-inclusive list. At management's discretion, any violation of the City's policies or any conduct considered inappropriate or unsatisfactory may subject the employee to disciplinary action. Questions about this policy should be directed to the Department Head and/or the Human Resources Specialist.

(F) The date of verbal warnings should always be noted and placed in the employee's personnel folder, along with a description of the occurrence which prompted this warning and any comments the employee may have made. This is the responsibility of the person giving the verbal reprimand or warning.

(G) Written warning. A dated written warning should be given to the employee specifying the reason for such warning and noting any previous verbal or written warnings. This notification should state that the employee's performance will now be reviewed on a daily basis for improvement, and explain the consequences of continued infractions. Copies of these written reprimands should be forwarded to the Human Resources office.

(H) Disciplinary Probation. If additional time is needed to allow an employee to improve their performance due to a serious violation, or repeated minor violations, the department head or the City Manager can authorize a disciplinary probation. While under disciplinary probation the employee will be closely monitored and may be terminated if performance expectations are not met. The employee will not be eligible for promotion or testing until the disciplinary probationary period has ended.

(H I) Suspension. After either a serious violation, or repeated minor violations, the department head or the City Manager can authorize a suspension. If possible, a discussion should be conducted between the employee and the supervisor before any suspension is levied. The department head should notify the City Manager's office in writing as soon as possible with the reason for the employee's suspension, the number of days or hours of suspension, and the date and time the employee may return to work. A copy of this information shall be forwarded to the Human Resources office. A suspension by a department head can be for any period up to and including two calendar weeks. If the severity of the offense so warrants, the City Manager can authorize a suspension of up to six months.

(I J) Dismissals.

(1) Where an offense is continually repeated, or misconduct is serious enough for discharge on the first offense, a department head may recommend to the City Manager that an employee be dismissed.

(2) The department or the City Manager shall give the employee a dated, written notice of his or her dismissal. This written notice shall contain one or more reasons or grounds for discharge, the date of the occurrence that provoked the discharge, and note any previous warnings and the dates of the same. The department shall send a copy to the Human Resources Director. Final and formal approval of the discharge shall come from the Mayor and Board of Commissioners. However, if the employee is still working under only the City Manager's approval, and has not been officially hired by the Commission, the City Manager can effectuate an immediate discharge if it is so warranted. Or, if the employee is still a probationary employee, the employee may be unilaterally dismissed by the department head or City Manager.

(J K) Termination of benefits during suspension. If an employee is on suspension for more than 30 days, then and in that event, all rights to fringe benefits are terminated, including, but not limited to, vacation accrual, sick leave accrual, medical insurance, and life insurance.



City of Covington Human Resources

Policy 800a Non-Discrimination And Harassment (Revised 11/8/02)

Policy:

It is the policy of the City of Covington to create a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits discriminatory practices, including harassment. Therefore, the City of Covington expects that all relationships among persons in the work environment will be business-like and free of bias, prejudice and harassment.

Comment:

Equal Employment Opportunity

All employees have the right to equal employment opportunity without discrimination or harassment on the basis of race, color, religion, sex, sexual orientation, age, disability, marital status, citizenship or any other characteristic protected by law. Any such discrimination or harassment is prohibited.

Retaliation

Employees are encouraged to report all perceived incidents of discrimination or harassment. All reports will be investigated. Retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports is prohibited.

Definitions Of Harassment

Sexual harassment constitutes discrimination and is illegal under federal, state and local laws. For the purpose of this policy, sexual harassment is defined, as in the EEOC Guidelines, as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering,

whistling or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and other physical, verbal or visual conduct of a sexual nature.

Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, sexual orientation, national origin, age, disability, marital status, citizenship or any other characteristic protected by law or that of his/her relatives, friends or associates and that;

- (i) has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- (ii) that the purpose or effect of unreasonably interfering with an individual's work performance; or
- (iii) otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group and that is placed on walls or elsewhere on the employer's premises or circulated in the workplace.

Individuals And Conduct Covered

These policies apply to all applicants and employees, whether related to conduct engaged in by fellow employees or someone not directly connected to the City of Covington (e.g., an outside vendor, consultant or citizen).

Conduct prohibited by these policies is unacceptable in the workplace and in any work related setting outside the workplace, such as during business trips, business meetings and business-related social events.

Report An Incident Of Harassment -Discrimination Or Retaliation

The City of Covington encourages reporting of all perceived incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. Individuals who believe that they have been the victim of such conduct should discuss their concerns with their Department Head, Human Resources Specialist or City Manager/Assistant City Manager.

In addition, the City encourages individuals who believe they are being subjected to such conduct promptly to advise the offender that his or her behavior is unwelcome and request that it be discontinued. Often this action alone will resolve the problem. The City recognizes, however, that an individual may prefer to pursue the matter through informal or formal complaint procedures.

Complaint Procedure

Informal Procedure

If for any reason an individual does not wish to address the offender directly, or if such action does not successfully end the offensive conduct, the individual should notify his/her Department Head, Human Resources Specialist or City Manager/Assistant City Manager, who may, if the individual so requests, talk to the alleged offender on the individual's behalf. In addition, there may be instances in which an individual seeks only to discuss matters with one of the City's designated representatives, and such discussion is encouraged.

An individual reporting harassment, discrimination or retaliation should be aware however; that the City may decide it is necessary to take action to address such conduct beyond an informal discussion. This decision will be discussed with the individual. The best course of action in any case will depend on many factors and, therefore, the Informal procedure will remain flexible. Moreover, the informal procedure is not a required first step for the reporting individual.

Formal Procedure

As noted, individuals who believe they have been victims of conduct prohibited by this policy statement or believe they have witnessed such conduct should discuss their concerns with their Department Head, Human Resources Specialist or the City Manager/Assistant City Manager.

The City encourages the prompt reporting of complaints or concerns so that rapid and constructive action can be taken before relationships become irreparably strained. Therefore, while no fixed reporting period has been established, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment.

Any reporting allegations of harassment, discrimination or retaliation will be investigated promptly. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action.

Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. Responsive action may include, for example, training, referral to counseling and/or disciplinary action such as warning, reprimand, withholding of a

promotion or pay increase, reassignment, temporary suspension without pay or termination, as the City believes appropriate under the circumstances.

False and malicious complaints of harassment, discrimination or retaliation as opposed to complaints which, even if erroneous, are made in good faith, may be the subject of appropriate disciplinary action.

The City has developed this policy to ensure that all its employees can work in an environment free from harassment, discrimination and retaliation. The City will make every reasonable effort to ensure that all concerned are familiar with these policies and aware that any complaint in violation of such policies will be investigated and resolved appropriately.

Any employee who has any questions or concerns about these policies should talk with the HR Specialist.



**City of Covington
Human Resources**

Employee Behavior/Sexual Harassment Acknowledgement

I, _____ (print full name)

Acknowledge receipt of the following City of Covington policies: Behavior of Employees and Non-Discrimination and Harassment. I have read or agree to read these documents in their entirety and direct any questions to the personnel office for clarification.

Employee Signature

Date

October 30, 2002

Employee Acknowledgement Form

I, _____
(print full name)

Acknowledge receipt of the following City of Covington policies: Behavior of Employees and Non-Discrimination and Harassment. I have read or agree to read these documents in their entirety and direct any questions to the personnel office for clarification.

Signed

(D) The City Manager will recommend employment to the Board of Commissioners, but the City Manager's recommendation is conditional upon the approval of the Mayor and Board of Commissioners.

(E) An applicant recommended by the City Manager for employment will be given a physical examination to determine if the applicant is physically able to perform the job for which he or she is being considered or whether his or her physical condition could endanger the health, safety, or well-being of other employees. When an applicant must be started to work before the physical examination, or before the results of the examination are known, the applicant must sign a statement of understanding acknowledging that continued employment is understood to be conditioned upon successful completion of the required physical examination.

5. PROBATIONARY PERIOD.

All new appointments, promotions, and transfers shall be for a probationary period of 12 months.

(A) Purposes. The purposes of a probationary period are:

(1) To evaluate the employee's progress in terms of work performance, attendance, conduct, cooperation, attitude, and similar traits; and

(2) To provide a period of training, close supervision, and counseling by the supervisor and to help the employee succeed.

(B) Progress report. With the assistance of the Human Resources Director, the immediate supervisor will evaluate the new employee once during the probationary period. The employee and immediate supervisor will discuss the employee's progress. The discussion can help to establish both a good relationship and good communications. It will also let the employee know that his or her day-to-day performance is being reviewed, and provide an opportunity to improve in the areas needed. At the end of the probationary period, performance ratings will be considered in determining whether or not the employee is to be retained.

(C) Discipline.

(1) The probationary period should be used to remove undesirable or unsuitable employees as soon as possible. Thus, we avoid wasting supervisors' and trainers' time. Furthermore, dissatisfied unqualified employees often spread their frustrations to others. This often causes poor morale. A newly appointed or newly promoted probationary employee may be suspended, terminated or transferred back to his or her original position during the probationary period.

6. EMPLOYEE BENEFITS.

(A) Benefits are provided to city employees in the following manner:

(1) Full-time employees receive all benefits.

(2) Temporary, seasonal, and part-time employees qualify for only those benefits required by law.

(B) The employee benefit section of this personnel policy is contained in §§ 7 through 15.

COMMISSIONERS' ORDINANCE NO. 0-07-12

AN ORDINANCE ESTABLISHING A MILITARY LEAVE OF ABSENCE POLICY PROVIDING COMPENSATION FOR CITY EMPLOYEES WHO ARE CALLED INTO ACTIVE DUTY IN THE MILITARY.

* * * *

NOW THEREFORE
BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE
CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That Section 34.68 of the City of Covington Code of Ordinances, 1984 edition, is hereby created and shall read as follows:

§ 34.68 MILITARY LEAVE OF ABSENCE

(A) Any full-time employee who is a member of the National Guard or a military reservist who is called to active military duty, in addition to the rights guaranteed by the Veterans Re-Employment Rights Act, will also be entitled to receive compensation during his or her active duty status in an amount equal to a difference between his or her current pay or salary at the time of deployment and his or her salary received from the military while on active duty.

(1) Current salary is defined to be the base salary established by the City's salary ordinance and any subsequent order/resolutions changing the salary in effect on the employee's beginning date of active military duty. The base salary does not include overtime or any other salary benefit.

(2) The City will compensate the employee while the employee is on active military duty at the difference between the employee's salary and the compensation received by the employee from his or her military employer. The City will pay the difference only if the City salary is less than the military salary.

(3) It is the responsibility of the employee on active duty to provide written verification of his or her military earnings by submitting copies of pay vouchers or other similar evidence to the Finance Department before salary differential payments are made.

Section 2

That this ordinance shall take effect and be in full force when passed, published and recorded according to law.

Chuck Seligson
MAYOR

ATTEST:

Margaret M. Dehan
CITY CLERK

Passed: 4-3-12 (Second Reading)

3-20-12 (First Reading)



ACTIVE DUTY MILITARY LEAVE NOTIFICATION
Revised 01/15/10

Any employee who is a member of the National Guard or a military reservist who is called to active military duty, in addition to the rights guaranteed by the Uniformed Services Employment and Reemployment Rights Act (USERRA), will also be entitled to receive compensation during his/her leave as required by KRS 61.394 for a period or periods not to exceed 21 calendar days. Any unused military leave in a federal fiscal (October 1 thru September 30) year shall be carried over to the next year. Any unused military leave shall expire two (2) years after it has accrued as defined in KRS 61.394. Leave begins to accrue after the initial leave is taken.

Your medical benefits will continue; however, any medical coverage provided by the military will become primary for those covered by military medical coverage. The City coverage will remain as primary for those not covered by military insurance.

If you have any a health care premium and/or voluntary benefits that are paid via a payroll deduction you will need to make arrangements with the payroll department for payment if you wish to continue your benefits.

This would include additional life insurance, supplemental Colonial insurance, flexible spending account payments, deferred compensation and any other investment accounts payments. If arrangements are not made and payment is not received, you will lose this coverage.

While on military leave after exhausting the paid leave entitled under KRS 61.394 you will NOT accrue vacation and sick leave. However, any sick leave will be carried over until your return and vacation accrued but unused on the commencement of your unpaid leave will be paid out at the end of the year or may be used to supplement your non-paid status. Upon your return from leave you will receive a pro-rated amount of vacation and sick leave that you would have earned at the beginning of the calendar year you returned.

Example: If you are eligible for 3 weeks vacation and your leave starts 6/30/07 and you have 2 weeks vacation left, you will be paid for those 2 weeks on 12/31/07 if you did not designate the vacation to used to supplement unpaid leave. You return on 6/30/09 your vacation days will be pro-rated for ½ the year and you will have 7.5 days for the remainder of 2009. If you returned on 1/1/09 you would receive the full 3 weeks vacation.

Your length of service will continue to accrue for the purposes of vacation, sick leave, seniority and CERS. Upon your return, you will begin to accrue benefits at the current rate based on length of service and seniority.

Upon completion of your orders you are to report back to work based on the guidelines set by the USERRA:

- Less than 31 days of service – you must return to work the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an eight (8) hour rest period.
- 30 days but less than 181 days – within 14 days of release from service
- 181+ days – within 90 days of release from service.

Under KRS.61.394, you will be allowed to carry over any unused military leave to the next year, however, the accrued leave must be used within a two year period. After two years the accrued leave is forfeited. Calculation of days and accrual is based on the Federal fiscal year which is 10/1 – 9/30.

Example: 10 days carried over in 2007, you must use the accrued 10 days by 2009, days carried over from 2008 must be used by 2010, etc.

ACTIVE DUTY MILITARY LEAVE NOTIFICATION

Name: _____ Date: _____

Department: _____

Date of Leave: _____

Approximate Date of Return: _____

If leave is expected to extend beyond your paid leave:

Do you wish to continue your voluntary benefits: _____ Yes* _____ No

***If yes, please list the benefit and amount below:**

Example: FSA (Flexible Spending Account), Cigna Supplemental Life Insurance, Colonial, AFLAC Insurance Products, ICMA & United Way Payroll Contributions.

Benefit	Amount
_____	_____
_____	_____
_____	_____

Mandatory Benefits:

Health Care Premium (if applicable)

Flexible Spending Account (if applicable)

You will need to indicate how you would like to pay your premium(s) and/or contributions to voluntary (if applicable) and mandatory benefits by indicating below:

_____ Monthly _____ Quarterly _____ Annually

Your first payment is due, prior to deployment. If payment is not received, you will lose your coverage and or benefit.

Written Order attached? _____ Yes _____ No

NOTE: You are not required to provide written orders until you have been on leave more than 30 days. Once you have exceeded 30 days you will need to submit a copy of your orders to the City to ensure your eligibility under the USERRA – Uniformed Services Employment and Reemployment Rights Act.

Employee Signature: _____ Date: _____

Supervisor Signature: _____ Date: _____

Office Use Only

Date Received: _____

Copy to Payroll: _____

Copy of Orders: _____

61.394 State employees' leave of absence -- Pay -- Unused military leave.

All officers and employees of this state, or of any department or agency thereof who are members of the National Guard or of any reserve component of the Armed Forces of the United States, or of the reserve corps of the United States Public Health Service, shall be entitled to leave of absence from their respective duties, without loss of time, pay, regular leave, impairment of efficiency rating, or of any other rights or benefits to which they are entitled, while in the performance of duty or training in the service of this state or of the United States under competent orders as specified in this section. In any one (1) federal fiscal year, officers or employees, while on military leave, shall be paid their salaries or compensations for a period or periods not exceeding twenty-one (21) calendar days. Any unused military leave in a federal fiscal year shall be carried over to the next year. Any unused military leave shall expire two (2) years after it has accrued.

Effective: July 12, 2006

History: Amended 2006 Ky. Acts ch. 194, sec. 2, effective July 12, 2006. -- Amended 2002 Ky. Acts ch. 95, sec. 2, effective July 15, 2002. -- Amended 1994 Ky. Acts ch. 434, sec. 1, effective July 15, 1994. -- Created 1962 Ky. Acts ch. 51, sec. 1.

COMMISSIONERS' ORDER/RESOLUTION NO. O/R-65-06

AN ORDER/RESOLUTION AMENDING COMMISSIONERS' ORDER/RESOLUTION NO. O/R-46-05, THE PERSONNEL POLICY, AS AMENDED, TO INCORPORATE PERSONAL AND WORK INJURY ABSENCES.

* * *

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That Commissioners' Order/Resolution No. O/R-46-05, the Personnel Policy, as amended, is hereby further amended to incorporate the following Personal and Work Injury Absences:

31. PERSONAL AND WORK INJURY ABSENCES.

The City strives to promote a successful recovery from any work related or personal injury/illness and has set up these guidelines for department heads to follow when an employee returns to work with restrictions or cannot work due to an injury/illness.

(A) If an employee has three consecutive days of incapacitation or a qualifying event, the employee will receive an FMLA notice along with a medical certification form which must be completed by their physician to qualify for FMLA leave. If you are absent due to a work-related injury, your absence will run concurrently with FMLA.

(B) The City will accommodate, as much as reasonably possible, an employee's work restrictions. However, a full productive work day must be available for an employee to work within his/her restrictions. If an employee's restrictions prevents the employee from working a productive day or there is no work available, he/she shall not return to work until he/she receives a release to full-duty without restrictions.

(C) When an employee returns to duty, he/she must provide a medical release that provides a release to return to normal job duties.

(D) Employees working in an accommodated status will not be permitted to work overtime, unless no other qualified personnel are available. No accommodated status shall extend beyond three (3) months, with an extension of three (3) additional months, at the discretion of the department head if the employee is expected to return to full duty within the three (3) month extension. At the end of the light duty assignment, the employee, if unable to return to full duty, shall use any remaining FMLA, accumulated leave (i.e., sick days, vacation days), or request a leave of absence, without pay, up to an additional six (6) month period.

(E) Employees who are absent due to a work-related injury and not placed in an accommodated status position, will receive whatever benefits are due under worker's compensation. Employees who have not returned to work or are not expected to return to full duty within a 12-month period or have reached Maximum Medical Improvement (MMI), will be subject to termination. An extension may be granted if medical certification can be provided that indicates that it is likely that the employee will be able to return to full duty within a reasonable amount of time following the 12-month limit.

(F) The City reserves the right to require that the employee submit to a physical examination for the purpose of obtaining a reasonable prognosis as to the recoverability. The City also has the right to require that the employee have a physical examination by a licensed medical doctor any time during his/her absence or accommodated status for the purpose of finding if he/she is judged permanently impaired.

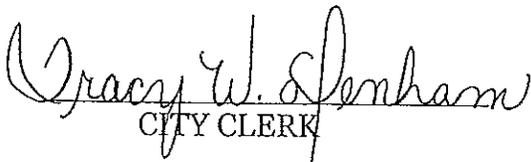
(G) At anytime within the 12 month period the employee is judged permanently impaired, so as to prevent his/her performance of normal duties, then he/she shall be subject to termination and referred to the County Employees Retirement System for consideration for disability retirement, if applicable.

Section 2

That this order/resolution shall take effect and be in full force when passed and recorded according to law.


MAYOR

ATTEST:


CITY CLERK

Passed: 3/28/06

7. SICK LEAVE

Paid sick leave is earned at the rate of one day per month or 12 days per year. Sick days may be accumulated. Non FLMLA sick leave can only be used for the employee's own sickness or injury resulting in the temporary disability.

(A) In order for the employee to receive payment for sick leave, the employee must notify an immediate supervisor or department head of the request and giving the reason for the absence. This notification must be made prior to the employee's regular shift start. Upon the return to work, the employee must complete, and the supervisors approve, an "absence with pat" report. The employee will be considered as a "failed to report" and will not be compensated if the notification occurs after the regular starting time and no acceptable excuse is given.

(B) Upon termination, employees are not permitted any cash redemption of accumulated sick days which were earned after July 1, 1976. Unused sick leave accumulated prior to June 30, 1976 will be paid upon termination based upon the average, regular weekly salary of the employee. (Average shall mean the three years directly preceding June 30, 1976).

(C) In case of hardship or unusual need, an employee may be advanced ten (10) working days of sick leave beyond the regular accrual. This can only be done after the recommendation of the appropriate department head and with the approval of the City Manager.

(D) The City may require proof of illness in the form of a certificate of illness from a qualified physician to verify the need for sick leave, or the city may require any other information of which may be necessary to validate the need for sick leave.

(E) If a department head believes that it is necessary, to review the usage of sick time by an employee, he may require the employee to submit a written statement by a physician verifying the employee's illness for each and every incident of sick time used. He may also require the employee to have a physical to evaluate the employee's medical condition. In these cases, the sick leave benefit may be withheld until the requirements of this section are met.

(F) If evidence of sick pay abuse is noted, disciplinary action may result up to and including termination of employment.

Statutory reference:

FICA tax on sick pay, see KRS 61.460(5)

8. MILITARY LEAVE OF ABSENCE.

(See ~~O/R-404-05~~)

0107-12

(2) The city will compensate the employee while the employee is on active military duty at the difference between the employee's current salary and the compensation received by the employee from his or her military employer on a monthly basis. It is the responsibility of the employee on active duty to provide periodic verification of his or her military earnings to the city Finance Department on a monthly basis by submitting a copy of the pay voucher received by the employee or other similar evidence to enable the Finance Department to calculate the difference.

9. FUNERAL LEAVE

The city shall grant leave, with pay, for death in the family in the following manner:

(B) On the occasion of the death of a father, mother, current mother-in-law, current father-in-law, spouse, child, brother, sister, from the time of death and to include the day of the funeral, not to exceed three working days.

(B) On the occasion of the death of a grandchild, or grandparent, the employee shall receive one 24-hour day, with pay to permit attendance at the funeral of the deceased, with an option of taking four additional days off, without pay.

10. JURY DUTY

(A) Immediately upon receipt of an order or summons to report for jury duty, the employee must present a copy of the order or summons to the department head. Time served on jury duty will not be charged against sick leave. After completing the duty, the employee must furnish evidence of having served on a jury for the time claimed. To receive payment, the employee shall submit the standard "Absence with Pay" slip approved by his or her department head.

(B) Any compensation received from the courts will be deducted from pay for the employee for that day.

11. VACATIONS.

It is the policy of the city to grant annual vacations with pay to full-time employees in accordance with the guidelines established below.

(A) The established vacation year is the calendar year, January 1 through December 31 each year. Vacations are accrued or earned based on the employee's length of service and on the time actually worked. In addition, unused vacation may not be carried over to the next year and normally must be taken in the year in which it is accrued.

(B) Full-time employees will receive paid vacation according to the following schedule:

Calendar year hired	up to 1 week*
1 st calendar year following date hired	2 weeks
5 th calendar year	3 weeks
15 th calendar year	4 weeks
25 th calendar year	5 weeks

*If hired in January, February, March – 1 week; April, May, June – 3 days; July, August, September – 2 days; October, November, December- 0 days. Vacation during the year hired can only be

taken after successfully completing 90 days of employment. Unused vacation during the first year of employment will not be paid upon termination of employment during the probationary period.

(C) Employees may take their vacation prior to accumulating vacation time with the approval of the department manager and the employee agreement to repay the city for any time taken that has not been accrued if he or she terminates his or her employment, prior to accrual, which will be deducted from his or her final pay check.

(D) Vacation pay for full-time employees will consist of the employee's regular rate of pay for the vacation period and generally will be paid on the regularly scheduled payday. Employees who want to receive vacation pay before the vacation is scheduled to begin.

(E) Generally, employees should submit a complete "Absence with Pay" form to their supervisor at least four weeks in advance of the request vacation date. Management reserves the right to designate when some or all vacations must be taken. Supervisors are responsible for ensuring adequate staffing levels and should attempt, when feasible, to resolve vacation scheduling conflicts based on length of service. However, employees who want to change their plans after the vacation schedule has been established lose any seniority consideration.

(F) Employees on a leave of absence, other than a military leave of absence, are required to use all accrued paid vacation time as part of the leave, as specified in §34.09 "Leave of Absence". In addition, employees on a leave of absence will not accrue any new vacation time during the leave.

(G) Employees who are entitled to a vacation of two weeks or less may take their full vacation at one time. Those who are entitled to a vacation of more than two weeks normally may take only a maximum of two weeks consecutively, with the balance to be taken separately as full weeks or as individual days.

(H) Employees may not receive vacation pay in lieu of time off. In addition, employees will not be paid for any unused vacation remaining at the end of the vacation year. The City Manager, Assistant City Manager, and Department Heads are allowed to cash out one week of vacation per year.

(I) When employment is terminated, employees will receive vacation pay for any unused vacation accrued at the time of termination.

(J) If a paid holiday falls within an employee's vacation period, a vacation day will not be charged for the holiday. (See §12 "Holidays") No allowance will be made for sickness or other compensable type of absence occurring during a scheduled vacation.

(K) Exempt employee provisions. Variations of this policy may apply for certain exempt level positions at the discretion of the City Manager and/or City Commission.

(L) Police and Fire Chiefs, Lieutenant and Assistant Fire Chiefs will continue to receive the same vacations as those covered by the FOP (Covington Lodge No.1) and IAFF (Local 38) contracts and working agreements.

12. HOLIDAYS

(A) It shall be the policy of the city to grant its nonuniform employees the following holidays off unless covered by another agreement:

Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Friday after Thanksgiving
Christmas Eve Day
Christmas Day
New Year's Day
President's Day
Good Friday (one-half day)
Memorial Day
Floating Day (to be designated by the City Manager in the beginning of each year)

(C) Whenever the list of holidays in the working agreement of Local 237, AFSME, Differs from those above, that agreement shall take precedence.

(D) Full-time permanent employees receive these days off with pay. Other employees receive these days off without pay.

(E) When it becomes necessary to work on such designated holiday, an employee will be paid at time and a half. Any employee working overtime on the holidays of New Year's Day, Christmas Day, or Thanksgiving Day, when this is not his or her regular designated work day, shall be paid double time.

(F) Whenever an employee is absent with sick leave on his or her last regularly scheduled work day before a holiday, or the first such day after a holiday, sick leave with pay will be allowed only if a doctor's certificate is presented.

Cross-reference:

Sick leave before or after holidays, see 11(J)

13. INSURANCE BENEFITS.

(A) The City agrees to provide both Worker's Compensation and Unemployment Insurance coverage for all employees consistent with the requirements established by the Kentucky Revised Statutes, and other related applicable laws and regulations.

(B) The city shall provide to each full-time, permanent employee and his or her family, hospitalization, surgical and major medical insurance, and dental coverage.

(C) All employees who are members of the National Guard or military reservists called to active duty in the United States military are entitled to retain medical and dental insurance benefits for their dependents for the time period during which they are serving on active military duty. Upon termination of military duty, and if employees does not return as an employee of the City, the dependents' medical and dental insurance benefits shall terminate.

Statutory reference:

Unemployment compensation, see KRS Ch. 341
Worker's compensation, see KRS Ch. 342

14. PENSION BENEFIT.

(A) CERS. Employees who qualify under the rules, regulations, and determinations of the County Employee Retirement System (CERS) will be provided with such pension.

(B) Non-uniformed Employees Pension Fund. Any city employees presently covered by the nonuniformed employees pension fund will remain thereunder but may at the employee's option transfer to the CERS system subject to the CERS rules and regulations.

(C) Police and firefighters pension benefits. Police and firefighter's pension benefits are governed by the applicable state statutes.

Statutory reference:

County Employees Retirement System, see KRS 78.510 et seq.

Pension Fund, second class cities, see KRS 90.400

Police and Firefighters Benefit Fund, see KRS 95.851 et seq.

15. OVERTIME.

(A) Overtime shall be paid at the rate of one and one-half times regular pay in the following situations.

(1) All hours worked in excess of 40 hours in one week, when those hours fall on the employee's first day off.

(2) All hours worked on call out of emergencies when the employee has been sent home, unless on a second day off.

(3) All hours worked on holidays (except New Years, Christmas, and Thanksgiving). This is in addition to the regular eight hours pay for the holiday.

(4) All hours worked in excess of eight per day for regularly scheduled workdays, except in the case where sick leave is used in the scheduled work week.

(B) Overtime shall be paid at the rate of double the regular rate in the following situations:

(1) Hours worked in excess of 40 in one week when those hours occur on an employee's second day off, and hours worked on call-out on the employee's second day off. However, this provision is not applicable except in case of emergencies, unless the employee has worked a minimum of eight hours on his or her first day off.

(2) Hours worked on New Years, Christmas, and Thanksgiving. This is in addition to eight hours at regular rate.

(C) General provisions.

(1) Overtime shall be paid only to those who qualify as nonexempt in accordance with the Federal Fair Labor Standards Act.

(2) Overtime must be approved in advance by department head or designee.

(3) No overtime premium will be paid for working on a scheduled off day unless the employee is in a pay status for at least 40 hours during that pay period. (Pay status is defined as time actually worked.)

(4) When overtime is necessary, the person in the proper job title for that particular job shall be given preference.

16. JOB DIFFERENTIAL PAY.

(A) Employees may be temporarily assigned to other duties not to exceed 30 days within their own department or another department, at the discretion of the department head or the City Manager. So long as the employee fills a higher rated job, he or she shall receive differential pay not to exceed \$50 per week, provided that the position is filled for five consecutive working days.

(B) The job title of the acting position shall be indicated on the time card whenever differential is claimed.

(C) When an employee covered by a working agreement fills a position not covered by a working agreement, differential pay shall not exceed \$50 a week for the days worked in the higher classification.

17. TRANSFERS.

(A) The City Manager, in his or her discretion, may transfer an employee to another department. An employee seeking a transfer to another department should request this in writing to his or her department head and send a copy to the City Manager, who will make the final determination as to whether to grant the request. While not totally prohibited, an employee may be denied consideration for a transfer to a department where a member of the individual's family or former spouse is employed.

(B) When an employee is transferred to another department (or promoted), all vacation and sick leave remains to the employee's credit and is transferred with the employee. The employee shall return all property of the department from which he or she is being transferred. The City Manager's signed approval of such transfer should be inserted in the employee's personnel file.

18. PERFORMANCE EVALUATION.

(A) Purposes.

(1) The purposes of performance reviews are:

(a) To stimulate supervisors to consistently analyze the performance of their subordinates and stimulate further development of the employees; and

(b) To motivate improvement in an employee's performance by demonstrating that the performance of their duties is being consistently and periodically analyzed by supervisors.

(2) The performance review provides a basis for discussing performance with the employee. If this discussion is conducted wisely, sincerely, and empathetically it should give the employee a feeling of satisfaction about the phases of his or her work which have been effective. By pinpointing bad work habits, the employee can understand how his or her performance can be improved.

The results of these evaluations will be used as a guide, although not necessarily the sole governing factor, in decisions on both advancement and discipline.

(B) Procedure. Every department head must be evaluated by the City Manager each year and every employee must be evaluated by his or her immediate supervisor each year. Ratings should be supported by citing specific examples whenever possible.

(C) The evaluation should be discussed, in private, with the employee by the rater. The rater and employee signatures, as well as the date of the discussion should be noted on the rating form. The employee's signature simply means that the form has been seen; not that the employee necessarily agrees with the evaluation. Next it is forwarded to the department head for approval and any additional comments. The approved evaluation form is then sent to the Human Resources Director to be reviewed and filed in the employee's personnel folder.

19. GRIEVANCE PROCEDURE.

(A) It is our purpose to provide an effective and acceptable means for employees to bring problems and complaints concerning their well-being at work to the attention of management. Therefore, the following grievance or complaint shall be initiated by the following procedures:

Step 1. The matter should be discussed with the immediate supervisor. The supervisor will make an inquiry into the facts and circumstances of the complaint. The immediate supervisor, the aggrieved employee, and any other involved parties should exert all efforts to reach a resolution of the specific complaint at this immediate informal level, within two regularly scheduled working days. If the employee wishes to carry the grievance further, he or she must initiate each step within one calendar week of receipt of the decision being appealed.

Step 2. If Step 1 produces no satisfactory solution, the grievant shall put the grievance in writing with a full statement of particulars. This shall be reviewed by the department head with the employee. The department head shall make a separate investigation and reply in writing within one calendar week after receipt of the employee's grievance, setting forth the reasons for his or her decision.

Step 3. If the grievance is not resolved to the satisfaction of the employee, he or she may request, in writing, a review and hearing by the City Manager within one calendar week after receiving the department head's decision regarding the grievance. The City Manager shall set the date for the hearing on the appeal. This hearing must be conducted within four calendar weeks after the request has been filed with the City Manager. The City Manager shall make such investigations as he or she deems necessary and shall, within four calendar weeks after the hearing, render a decision in writing based on his or her findings and conclusions.

(B) Any grievances which are not filed by the grievant within the stated time limit shall be considered settled as per the decision of the last step. Any grievance not taken up by management within the stated time limit shall be moved to the next step. Notwithstanding the provisions of this procedure, exceptional or uncommon conditions may give grounds for extension of time limits upon mutual agreement by the city and employee. An employee must exhaust all administrative remedies, including the remedies under this grievance procedure, prior to initiating any legal action against the City.

(C) Copies of all written grievances, and copies of the subsequent respective decisions, shall be provided to the Human Resources office, at each step, without delay.

20. ABSENCES, ATTENDANCE, AND PUNCTUALITY.

COMMISSIONERS' ORDER/RESOLUTION NO. OR-61-05

AN ORDER/RESOLUTION AMENDING COMMISSIONERS' ORDER/RESOLUTION NO. O/R-46-05 WHICH ADOPTED PERSONNEL POLICIES AND PROCEDURES, TO PROVIDE THAT NO EMPLOYEE SHALL PERFORM WORK OR JOB DUTIES FOR ANY OTHER EMPLOYER DURING CITY WORK HOURS UNLESS SPECIFICALLY AUTHORIZED TO DO SO BY RESOLUTION OF THE BOARD OF COMMISSIONERS.

* * *

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That Commissioners' Order/Resolution No. O/R-46-05 which adopted personnel policies and procedures, is hereby amended at Section 20 "Absences, Attendance, Punctuality and Outside Work" as follows:

20. ABSENCES, ATTENDANCE, AND PUNCTUALITY, AND OUTSIDE WORK.

(A) Regular and prompt attendance is essential. It is necessary for each employee to be present and on time because the work assignment of other people depends on that employee's scheduled availability on the job. Further, any employee who continually arrives late for work has a detrimental effect on the morale of punctual employees. In the event that the employee is delayed or absent for any reason, he or she must notify the supervisor or department head's office by starting time to explain the circumstances and probable length of absence. This is necessary so that alternate assignments of his or her work can be made.

(B) All employees shall make formal application for any period of time off, with or without pay, on the appropriate absence slip. Such application shall be filed in advance whenever possible. While an employee is on any leave with pay, he or she shall continue to accumulate sick days and vacation to his or her credit. An employee on leave without pay will not accumulate sick days, or vacation.

(C) Short-term frequent absences, including tardiness, constitute an unsatisfactory record. An employee who is chronically absent, or otherwise unable to be present on time, for whatever reasons, simply cannot fulfill the role for which he was hired.

(D) Tardiness. Habitual tardiness cannot be tolerated. A tardy employee is one who is late for work at his or her assigned time. After the first instance of tardiness in a month, the employee will be reprimanded, a second instance of tardiness in a given month or if the employee exceeds 12 tardy times in a fiscal year, the employee will be suspended for two days; a third instance of tardiness in a given month or if the employee exceeds 15 tardy times in a fiscal year, the employee will be recommended for termination.

(E) A flex-time system is available to employees to set hours of work with the prior approval of the department head and City Manager.

COMMISSIONERS' ORDER/RESOLUTION NO. OR-163-05

AN ORDER/RESOLUTION AMENDING COMMISSIONERS' ORDER/RESOLUTION NO. O/R-46-05, AS AMENDED, TO INCORPORATE AN EDUCATIONAL ASSISTANCE POLICY.

* * *

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That Commissioners' Order/Resolution No. O/R-46-05, as amended, is hereby further amended to incorporate the following educational assistance policy:

30. EDUCATIONAL ASSISTANCE POLICY.

It is the policy of the City of Covington to provide educational assistance to its employees in accordance with the guidelines established below.

(A) To be eligible for educational assistance, employees must have regular full-time status, at least one year of service with the City and a favorable performance evaluation.

(B) The maximum amount of reimbursement per calendar year will be based on the current Northern Kentucky University's undergraduate or graduate credit hour cost up to 12 credit hours per year. The employee may choose any pre-approved institution; but total reimbursement will not exceed the amount established by Northern Kentucky University per year.

(C) Eligible employees may be reimbursed only for courses that apply towards a degree that the City determines is directly related to the employee's present job or that will enhance the employee's potential for advancement to a position within the City and to which the individual has a reasonable expectation of advancing. In addition, only courses that are offered by pre-approved institutions of learning will be eligible for reimbursement.

(D) Employees who want educational assistance must complete an Education Assistance Application and obtain approval from the Educational Assistance Committee (which shall consist of three city employees selected by the City Manager) before enrollment. The committee will submit their final recommendations to the City of Covington Commission for final approval.

(E) Department Heads normally should consider the following factors in evaluating requests for educational assistance:

- (1) The nature and purpose of the course of study;
- (2) The benefits to be derived by the employee and the City;
- (3) The employee's level of responsibility and length of service;
- (4) The estimated cost; and
- (5) Any potential lost time or productivity while the employee participates in the program.

(F) Employee reimbursement for eligible educational assistance is as follows:

A - 100% of tuition

B - 80% of tuition

COMMISSIONERS' ORDER/RESOLUTION NO. OR-163-05

AN ORDER/RESOLUTION AMENDING COMMISSIONERS' ORDER/RESOLUTION NO. O/R-46-05, AS AMENDED, TO INCORPORATE AN EDUCATIONAL ASSISTANCE POLICY.

* * *

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF COVINGTON, KENTON COUNTY, KENTUCKY:

Section 1

That Commissioners' Order/Resolution No. O/R-46-05, as amended, is hereby further amended to incorporate the following educational assistance policy:

30. EDUCATIONAL ASSISTANCE POLICY.

It is the policy of the City of Covington to provide educational assistance to its employees in accordance with the guidelines established below.

(A) To be eligible for educational assistance, employees must have regular full-time status, at least one year of service with the City and a favorable performance evaluation.

(B) The maximum amount of reimbursement per calendar year will be based on the current Northern Kentucky University's undergraduate or graduate credit hour cost up to 12 credit hours per year. The employee may choose any pre-approved institution; but total reimbursement will not exceed the amount established by Northern Kentucky University per year.

(C) Eligible employees may be reimbursed only for courses that apply towards a degree that the City determines is directly related to the employee's present job or that will enhance the employee's potential for advancement to a position within the City and to which the individual has a reasonable expectation of advancing. In addition, only courses that are offered by pre-approved institutions of learning will be eligible for reimbursement.

(D) Employees who want educational assistance must complete an Education Assistance Application and obtain approval from the Educational Assistance Committee (which shall consist of three city employees selected by the City Manager) before enrollment. The committee will submit their final recommendations to the City of Covington Commission for final approval.

(E) Department Heads normally should consider the following factors in evaluating requests for educational assistance:

- (1) The nature and purpose of the course of study;
- (2) The benefits to be derived by the employee and the City;
- (3) The employee's level of responsibility and length of service;
- (4) The estimated cost; and
- (5) Any potential lost time or productivity while the employee participates in the program.

(F) Employee reimbursement for eligible educational assistance is as follows:

A - 100% of tuition

B - 80% of tuition

C - 50% of tuition

No reimbursement will be made for a grade lower than "C," or classes that are audited, or for classes the employee does not complete. Employees receiving reimbursement from any outside sources, such as the Department of Veterans Affairs or scholarships, may use the above formula, but the City's portion will be based on the actual amount paid out of pocket by the employee. The City's reimbursement combined with any other sources may not exceed 100% of the reimbursable cost.

(G) Employees seeking reimbursement for educational expenses must submit a certified transcript of their grades and an itemized receipt (not a billing statement) for tuition and book(s) if applicable to the Human Resources Department. The Finance department will reimburse the employee the approved amount. However, employees who take courses at the specific request or direction of management may be reimbursed for all costs in advance.

(H) Employees will not be reimbursed for a course(s) if they voluntarily leave the City or are terminated for cause.

(I) In the event that an employee voluntarily leaves the employment of the City within five years after receiving tuition reimbursement from the City, the employee shall pay back, to the City, on a pro-rated basis, any funds paid to the employee by the City for tuition during this time period. The employee shall be obligated to repay the tuition cost at a rate 20 percent of the total tuition costs for each year in the five-year period that the employee does not work for the City. For example, if the City paid \$1,000 in tuition reimbursement in June 2003 and the employee left in December 2004 (1.5 years after the City's payment), the employee would be required to repay the City a total of \$700 ($\$1,000 \times 3.5 \text{ years} \times 20\%$). The City may deduct from the employee's final paycheck(s) any tuition repayments owed to the City.

(J) Employees are expected under normal circumstances to schedule class attendance and the completion of study assignments outside of their regular working hours. It is expected that educational activities will not interfere with the employee's work, and unsatisfactory job performance during enrollment may result in forfeiture of educational assistance and termination of employment.

(K) Records of all education programs completed by each employee will be maintained by the Human Resources Department.

Section 2

That this order/resolution shall take effect and be in full force when passed and recorded according to law.

ATTEST:

Paula K. Givens
CITY CLERK

Passed: 5/17/05

Section 2		APR 16 2005	10 30 AM	CLERK
<i>Erwin T. Cady</i>		MAYOR		
7900				
VRBJJAO				

Kentucky Revised Statutes the disciplinary measures and procedures specified in the Kentucky Revised Statutes shall prevail in the case of any conflicts.

Statutory reference:

Civil service disciplinary procedures, see KRS 90.360

(C) The City may conduct work-related investigations of employee conduct and employees are expected to fully cooperate with such investigations. The City is permitted to search person(s) and/or their property when it has reason to believe that the search will reveal evidence of an employee's misconduct. The City is permitted to search its own property and premises, including, but not limited to, lockers, equipment, and City-owned vehicles.

(D) When an employee engages improper conduct, the employee's supervisor is authorized to take prompt corrective action. Such corrective action may vary from a verbal warning by the employee's supervisor to immediate suspension without pay by the department head or the City Manager. The seriousness and frequency of violations are the primary factors considered by management when determining disciplinary measures to be applied. The City retains the right to determine the form and severity of discipline imposed on employees and it is not bound to employ any form of progressive punishment. While progressive punishment may be employed at the discretion of a supervisor, this in no way prohibits the City or its supervisory personnel from dispensing discipline in a manner consistent with the seriousness of the offense committed, including but not limited to termination.

(E) A reprimand is best administered in private, whenever possible, and it is best administered without rancor. There should be little time lag between the offense and the reprimand.

(F) The date of verbal warnings should always be noted and placed in the employee's personnel folder, along with a description of the occurrence which prompted this warning and any comments the employee may have made. This is the responsibility of the person giving the verbal reprimand or warning.

(G) Written warning. A dated written warning should be given to the employee specifying the reason for such warning and noting any previous verbal or written warnings. This notification should state that the employee's performance will now be reviewed on a daily basis for improvement, and explain the consequences of continued infractions. Copies of these written reprimands should be forwarded to the Human Resources office.

(H) Suspension. After either a serious violation, or repeated minor violations, the department head or the City Manager can authorize a suspension. If possible, a discussion should be conducted between the employee and the supervisor before any suspension is levied. The department head should notify the City Manager's office in writing as soon as possible with the reason for the employee's suspension, the number of days or hours of suspension, and the date and time the employee may return to work. A copy of this information shall be forwarded to the Human Resources office. A suspension by a department head can be for any period up to and including two calendar weeks. If the severity of the offense so warrants, the City Manager can authorize a suspension of up to six months.

(I) Dismissals.

(1) Where an offense is continually repeated, or misconduct is serious enough for discharge on the first offense, a department head may recommend to the City Manager that an employee be dismissed.

(2) The department or the City Manager shall give the employee a dated, written notice of his or her dismissal. This written notice shall contain one or more reasons or grounds for discharge, the date of the occurrence that provoked the discharge, and note any previous warnings and the dates of the same. The department shall send a copy to the Human Resources Director. Final and formal approval of the discharge shall come from the Mayor and Board of Commissioners. However, if the employee is still working under only the City Manager's approval, and has not been officially hired by the Commission, the City Manager can effectuate an immediate discharge if it is so warranted. Or, if the employee is still a probationary employee, the employee may be unilaterally dismissed by the department head or City Manager.

(J) Termination of benefits during suspension. If an employee is on suspension for more than 30 days, then and in that event, all rights to fringe benefits are terminated, including, but not limited to, vacation accrual, sick leave accrual, medical insurance, and life insurance.

23. RESIGNATIONS.

The employee shall, to resign in good standing, submit a written notice of resignation. Included in this notice should be full details of the reason for the resignation, the date of the notice, the employee's signature, and the effective date of resignation. If the employee does not wish to disclose the reason (for example, personal reasons), it should be noted whether or not it is in any way connected with the job. A copy of the resignation must be forwarded to the Human Resources office. The original is given to the City Clerk. A resignation that does not comply with these rules may be regarded as cause for denying the resigning employee future employment by the city; or if it is deemed necessary, the employee's final check can be withheld.

24. EXIT INTERVIEW.

(A) An exit interview should be arranged between the employee and the Human Resources Director upon notification of any resignation, discharge, or other reason for termination of employment. If the interview has not been held prior to the employee's departure, his or her last check will be sent to the Human Resources office where the employee will pick it up at the time of the interview.

(B) When an employee wishes to resign because of illness or for other personal reasons, the possibility of a leave-of-absence should be explored if the employee has a good work record.

(C) Unemployment insurance termination forms should be filled out by the employee's supervisor and then forwarded to the Human Resources Department. Arrangements should be made for return of any city property.

(D) During the interview, the employee should be advised about the termination of employee benefits. The employee may continue medical insurance coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA").

(E) The date of the interview and the information gained should be noted in the outgoing employee's personnel file.

25. MISCELLANEOUS.

(A) It is the employee's responsibility to notify his or her department of any change of home address, home telephone number, or name (marital status). In positions which require a driver's license, the employee must make immediate notification when his or her license is revoked. Failure to report such

changes shall be deemed neglect of duty and may be made grounds for disciplinary action. The department shall forward notices of changes to both the Human Resources office and Payroll.

(B) All references to department heads and City Manager throughout this personnel policy shall also include the designated representative in their absence.

(C) Employees who give 24 hours written notice shall be permitted one hour off, with pay, for permission to vote in all primary and general elections.

(D) Communications to various city officials and employees should follow the proper chain of command.

(E) The city does not wish to interject itself into what an employee does during his or her off-duty hours but must concern itself when any one of the following exist:

(1) When the off-duty work activities of an employee are such as to justifiably create critical comment of the city by the general public.

(2) When an employee's conduct is such as to reflect unfavorably on himself or herself, fellow employees, and the city generally

(3) When an employee's off-duty work activities are such as to take substantially of his or her time, thought, and effort, thereby rendering the employee less capable of performing efficiently and alertly on his or her city job.

(F) Department heads are required to set such conditions as are pertinent to the efficient and proper performance of work in their particular department.

(G) There will be a job description of the duties and responsibilities, and the minimum and desirable qualifications for each position other than City Manager, Assistant City Manager, Solicitor, and Assistant Solicitors. Department heads should see that the job description for the positions in their department are reviewed at least once each calendar year, and updated if necessary. Suggested changes in the job description should be forwarded to the Human Resources office. Copies of any changed job description will be given to the employees in that position and posted on the bulletin boards for all others to examine.

(H) It is the city's policy to make a sincere effort to review and, where necessary, adjust salaries, once each year, of all exempt and non-exempt employees who are not represented by a union or bargained for collectively. This is usually done in December or January of each year.

(I) An employee's health has an important influence on his job effectiveness, and could affect his job safety as well as that of co-workers. For these reasons, the city reserves the right to require an employee to undergo medical examinations by city-designated doctors at any time. Such examinations are in the interest of the employee's well-being and serve to determine whether or not a disability is developing which might interfere with the safe and efficient conduct of his work.

(J) When existing rules and regulations are changed, or when new rules and regulations are established, they shall be posted prominently on the official bulletin boards to give the employees an opportunity to read them.

27. HOURS OF WORK.

The work schedule for shift Assistant Chiefs in the Fire Department shall be a 24-hour tour-of-duty followed by 48 hours of continuous time off, and shall be granted every seventh working tour off so that after an employee's sixth tour-of-duty, he or she shall be granted 120 hours of continuous time off. This seventh day shall be designated as a "Kelly day."

28. FAMILY AND MEDICAL LEAVE POLICY.

I. GENERAL PROVISIONS.

(A) The city will provide eligible employees with up to a total of 12 work weeks of leave during any rolling 12-month period measured backward from the date leave is used for any of the following reasons:

- (1) Due to the birth, placement or adoption of a child and to care for such child; or
- (2) Because of a serious health condition that makes the employee unable to perform the functions of his or her position; or
- (3) To care for the employee's spouse, child or parent who suffers from a serious health condition. The employee must substitute any paid sick days or accrued paid vacation leave towards the 12 weeks of leave. If paid sick days or vacation leave is substituted for family and medical leave, the city will notify the employee that the paid leave is being counted toward the employee's family and medical leave entitlement.

(B) If the employee is injured in connection with work and is receiving time off and benefits under Kentucky's Workers' Compensation laws, then the period of time which he or she is absent from work will be charged concurrently against his or her 12-week family and medical leave entitlement. Family and medical leave is only available to employees who have been employed for at least 12 months and have worked at least 1250 hours during the previous 12-month period. Family and medical leave is not available to part-time or temporary employees or to employees who work at a worksite at which there are fewer than 50 employees within a 75 mile radius.

II. WAGES AND BENEFITS.

(A) No wages will be paid to the employee during his or her family and medical leave of absence with the exception of substituted paid sick days or accrued paid vacation leave. ~~Accrued sick leave can only be used for the serious health condition of the employee or a serious health condition of a qualifying family member. Accrued sick leave cannot be used for the birth, placement or adoption of a child.~~ ←

(B) If the employee takes family and medical leave, he or she will not lose employment benefits that accrued before the date leave began. While he or she is on leave, the city will pay, on his or her behalf, the costs of any benefits from group coverage paid by a group premium (e.g., life insurance) and its portion, if any, of health insurance benefits. The employee will have the option to continue any other available benefits at his or her own expense. If the employee is delinquent in paying his or her share of benefit premiums and the delinquency continues for 15 days after the city gives the employee notice of his or her delinquency, then his or her benefits will be canceled. The employee will not accrue vacation and sick time during his or her leave.

(C) If the employee takes family and medical leave and does not complete at least 30 days of additional employment, he or she shall immediately reimburse the city for any amount paid by the city during the leave period, excluding the period consisting of paid sick days and vacation leave substituted for family and medical leave, for its portion, if any, of the employee's health insurance premiums, unless the failure to return for at least 30 days of additional employment is due to the continuation, recurrence or onset of a serious health condition of his or her spouse or child, or some other extenuating circumstance beyond his or her control.

(D) If the employee fails to return to work because of the continuation, recurrence or onset of a serious health condition of his or her spouse or child, then he or she must provide the city with medical certification of his or her family member's serious health condition within 30 days from the date he or she notifies the city that he or she will not return to work. If the employee does not provide the medical certification in a timely manner, then the city can recover the portion of health care premiums paid by the city on his or her behalf as set forth in the preceding section.

III. RETURN TO WORK.

(A) With the exception of taking leave due to the birth, placement or adoption of a child or to care for such child, the employee must return to work immediately upon becoming able to return. Failure to do so will be treated as a voluntary termination. In no event shall the employee take more than 12 weeks of family and medical leave during any rolling 12-month period.

(B) The employee will have the same right to restoration and other benefits as he or she would have enjoyed if he or she had been continuously employed during the leave period. Ordinarily, upon return to work, he or she will be restored to the same position he or she held when leave began, if that position is still available. If the position is no longer available, he or she will be restored to an equivalent position with equivalent pay, benefits and other terms and conditions of employment.

(C) As a condition of restoration, when returning from leave taken due to the employee's own serious health condition, he or she must provide the Human Resources Specialist with a fitness for duty certification. The return to work fitness for duty examination and certification must be conducted and prepared by a health care provider selected or at least agreed upon by the city. The fitness for duty examination and certification shall be limited to the condition which caused the need for leave. The certification must set forth work restrictions, if any.

(D) The city will not guarantee restoration of employment if the employee takes more than 12 work weeks of family and medical leave during any 12-month period.

(E) The city may deny restoration to any "key employee" if denial of restoration is necessary to prevent substantial and grievous economic injury to the city's operation. A key employee is a salaried employee who is among the highest paid 10% of those employed by the city within 75 miles of the office at which the employee works. If an employee is a key employee, the city will notify him or her when he or she requests leave if the city believes there is a possibility that he or she will not be restored at the end of the leave period. If the city determines that economic injury would result, then the city will immediately notify the employee, in writing, either delivered in person or by certified mail, of its intent not to restore him or her to his or her previous position. If leave has already started, the employee will have the option to return to work and be restored to his or her position.

(F) If the employee is on leave, the city will require him or her to report periodically on his or her status and intent to return to work. If he or she gives notice of his or her intent not to return to work, then the city's obligation to maintain benefits and restore employment will cease. If circumstances

of the employee's leave change and he or she is able to return to work earlier than the date he or she previously indicated, then he or she must notify the city at least two work days prior to the date he or she intends to return.

IV. LEAVE FOR BIRTH, PLACEMENT OR ADOPTION OF A CHILD.

(A) If the employee is eligible, he or she is entitled to take leave due to the birth, placement or adoption of a child or to care for the child. The leave may begin prior to the birth, placement or adoption, but the right to leave, based on one of these events, will expire 12 months after the birth, placement or adoption.

(B) Both mother and father are entitled to leave. If both mother and father are employed by the city, they may both take leave, but the total number of weeks cannot exceed 12 work weeks.

(C) The employee must give the Human Resources Director 30 days notice before the date leave is to begin. If the need for leave or the timing of the leave is unforeseeable, he or she must give the Human Resources Specialist notice of the need for leave as soon as practicable, but in no event later than two working days of learning for the need for the leave.

(D) Leave due to birth, placement or adoption of a child cannot be taken intermittently or on a reduced schedule basis unless the Human Resources Director gives written approval.

V. LEAVE FOR SERIOUS HEALTH CONDITION.

(A) If the employee is eligible, he or she is entitled to take leave because of a serious health condition that makes him or her unable to perform the functions of his or her position or to care for his or her spouse, child or parent who suffers from a serious health condition.

(B) A serious health condition is a physical or mental impairment, illness, injury or condition that involves one of the following:

(1) Hospital care. Any period of incapacity or treatment in connection with or consequent to inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility.

(2) Absence plus treatment. Any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three consecutive calendar days, that also involves:

(a) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or

(b) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.

(3) Pregnancy. Any period of incapacity due to pregnancy, or for prenatal care; or

(4) Chronic conditions requiring treatments. A chronic condition which:

(a) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;

(b) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

(c) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy and the like).

(5) Permanent/long-term conditions requiring supervision. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(6) Multiple treatments (non-chronic conditions). Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that solely results in a period of incapacity of more than three consecutive days in the absence of medical treatment, such as cancer (chemotherapy, radiation and the like), severe arthritis (physical therapy and the like), or kidney disease (dialysis).

(C) For purposes of this policy, the term HEALTH CARE PROVIDER refers to the following:

(1) A doctor of medicine or osteopathy, who is authorized to practice medicine or surgery by the state in which the doctor practices;

(2) A podiatrist, dentist, clinical psychologist, optometrist or chiropractor (limited to treatment consisting of manual manipulation of spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in the state and performing within the scope of his or her practice as defined under state law;

(3) A nurse practitioner or nurse midwife who is authorized to practice under state law and who is performing within the scope of his or her practice as defined under state law;

(4) A Christian Science practitioner listed with the Board of Christian Science Practitioners in Boston, Massachusetts. If the employee or his or her family member is a member from a Christian Science practitioner, the city may require that he or she or his or her family member submit to an examination, though not treatment, to obtain a second or third certification from a health care provider other than a Christian Science practitioner;

(5) Any health care provider from whom the city or the city's group Human Resources Specialist will accept certification of the existence of a serious health condition to substantiate a claim for benefits; or

(6) A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

(D) Both husband and wife are entitled to leave. If husband and wife are employed by the city, and the leave is taken to care for a sick spouse or child, then each employee can take 12 weeks of

leave. If the leave is taken to care for a sick parent, then the total number of weeks for both husband and wife cannot exceed 12 weeks.

(E) If the need for leave is foreseeable, the employee must give the Human Resources Specialist 30 days notice. If the need for leave or the timing of the leave is unforeseeable, the employee must give the notice of the need for leave as soon as practicable, but in no event later than two working days of learning for the need for the leave.

(F) The employee must make a reasonable effort to schedule medical treatment so as not to disrupt unduly the city's operations, subject to approval of the health care provider.

(G) The employee may take leave intermittently or on a reduced scheduled basis if medically necessary. If he or she takes leave intermittently or on a reduced schedule, the city may require him or her to transfer temporarily to an available alternative position for which he or she is qualified that better accommodates recurring leave and has equivalent pay and benefits.

(H) If the employee takes leave due to his or her own serious health condition, or that of a spouse, child or parent, he or she must, within 15 days of the beginning date of leave, provide the Human Resources Specialist with written certification from a health care provider of certain basic information about him or her or his or her family member's condition. The city will provide the employee with a form prepared by the United States Department of Labor in order to collect the information from him or her.

(I) If the city questions the certification, the city can, at its own expense, require that the employee get a second opinion from another health care provider of the city's choice so long as the second provider is not regularly employed by the city. If the second opinion differs from the first opinion, the city may require, at its own expense, a third opinion from a provider jointly selected by the city and the employee, which opinion will be final and binding.

(J) If the city questions the certification, the city can also employ a health care provider to contact the employee's health care provider to obtain clarification and authentication of the information included in his or her certification. The city's health care provider will not ask the employee's health care provider for a diagnosis. If the city requests the employee's permission to have its health care provider contact the employee's health care provider, the city will expect his or her cooperation.

(K) The city may require recertification on a reasonable basis.

(L) The city will maintain and treat as confidential all records submitted in connection with requests for family and medical leave.

29. OTHER POLICIES.

Other policies dealing with a drug-free workplace, the civil service system, and employees retirement fund, are contained in Chapter 34 of the Covington Code or Ordinances.

FAMILY MEDICARE CARE LEAVE ACT
MILITARY ADDENDUM

Leave to Care for a Seriously Ill or Injured Family Member in Military Service: Employees who are the spouse, child, parent, or next of kin of a covered service member may be granted up to 26 weeks of leave in a "single" 12-month period to care for a service member who has a serious injury or illness incurred while on active duty.²⁸ The City of Covington requires certification of the family member's serious injury or illness, both before the leave begins and on a periodic basis thereafter, by the family member's health care provider. For an explanation of the FMLA and leave to care for a seriously ill or injured family member in military service.

Leave for a Qualifying Exigency Arising out of Active Duty or a Call to Active Duty: Employees may be granted a leave of absence because of a qualifying exigency arising out of the active duty or call to active duty status of a parent, spouse, or child in the National Guard or Reserves in support of a contingency operation.

DRUGS
Section 34.30
DRUG-FREE WORKPLACE
Department of Transportation Guidelines

In order to provide a drug-free workplace, the following policy has been drawn to reiterate and state in a more formal way the work-related effects of drug use and unlawful possession of controlled substances on city premises, or while conducting city business.

(A) Employees are expected and required to report to work on time and in appropriate mental and physical condition for work. It is the city's intent and obligation to provide a drug-free, healthful, safe and secure work environment.

(B) The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance on city premises or while conducting city business off city premises is absolutely prohibited. Violations of this policy will result in disciplinary action, up to and including termination, and may have legal consequences.

(C) The city recognizes drug dependency as an illness and a major health problem. The city also recognizes drug abuse as a potential health, safety, and security problem. Employees needing help in dealing with such problems are encouraged to use the city's employee assistance program and health insurance plans, as appropriate. Conscientious efforts to seek such help will not jeopardize any employee's job.

(D) Employees must, as a condition of employment, abide by the terms of the above policy and report any conviction under a criminal drug statute for violations occurring on or off city premises while conducting city business. A report of a conviction must be made within five days after the conviction.

(E) Appropriate personnel action against any employee convicted of a criminal drug offense will be taken within 30 days of the date the employer learns of conviction. Such action can range from discharge to a requirement of satisfactory participation in a drug abuse, assistance or rehabilitation program.

(Am. Ord. O-29-89, passed 5-22-89)

(F) In addition to the policy set forth above, the Federal Highway Administration (FHWA) has issued regulations which require that mandatory alcohol and drug testing procedures be applied to all city employees subject to Commercial Driver License (CDL) testing and licensing procedures. These FHWA requirements are in addition to the city's rules for use and/or possession of alcohol/drugs, and are not to be interpreted as a replacement thereof.

(1) *Definitions.*

ALCOHOL. A colorless volatile flammable liquid (C_2H_5OH) formed by vinous fermentation and contained in wine, beer, whiskey and other fermented and distilled liquors of which it is the intoxicating principle, that is manufactured principally by fermentation of carbohydrate materials and by hydration of ethylene, being obtained usually by fractional distillation in a concentration of about 95% with about 5% water; any of a class of compounds analogous to ethyl alcohol in constitution and regarded as hydroxyl derivatives of hydrocarbons being classed according to the number of hydroxyl derivatives of hydrocarbons being classed according to the number of hydroxyl groups (as monohydric, dihydric, trihydric, polyhydric) or according to structure.

BAT. Breath alcohol test.

CDL. Commercial Driver's License.

DOT. Department of Transportation.

DRUG. Marijuana (THC metabolite), cocaine, amphetamines, opiates (including heroin) and phencyclidine (PCP) as defined in Kentucky Revised Statutes Chapter 218A.

EAP. Employee Assistance Program.

FHWA. Federal Highway Administration.

M.R.O. Medical review officer.

(2) *Rules.* In addition to the rules set forth in the city's Drug-Free Workplace Policy for alcohol and drug abuse, the following uses of alcohol are prohibited by employees who maintain a CDL:

- (a) Use while performing safety-sensitive functions;
- (b) Use during the four hours prior to performing safety-sensitive functions;
- (c) Use eight hours following an accident or until the employee passes a post-accident test.

(3) *Drug/alcohol testing program.*

(a) *A procedure of integrity.* The city will test for the use of illegal drugs and alcohol in accordance with the safeguards as to privacy, procedure, accuracy, and confidentiality contained in the federal guidelines of the United States Department of Health and Human Services (HHS) and in certain of the regulations of the United States Department of Transportation (DOT) and the Federal Highway Administration (FHWA). Specimen collection will be conducted at a designated site and according to federal guidelines. Pursuant to the above federal regulations, complete privacy in collection of the urine sample is required unless there is reason to believe that a particular individual may alter or substitute the specimen. The DOT/FHWA regulations narrowly define the circumstances under which observed urine samples may be taken.

1. Being selected for drug or alcohol testing implies no guilt or wrongdoing. It is simply part of a comprehensive and effective overall program, for the benefit of all concerned.

2. Specimen testing will be conducted by a laboratory certified by the National Institute on Drug Abuse (NIDA). All positive drug results must be confirmed by gas chromatography/mass spectrometry testing. The employee has the further right to retesting of the drug sample as under the DOT/FHWA program.

3. A Medical Review Officer (M.R.O.) qualified in the field of drug and alcohol testing, will be selected by the city. Test results will be maintained by the M.R.O., and confidentially maintained as under the DOT/FHWA regulations. The M.R.O. will notify the employee of a verified positive test and their right to retesting of the split sample within 72 hours of notification.

(b) *Types of testing.*

1. *Pre-employment.* Upon selection of an applicant for hire; full-time, part-time, or seasonal, the individual will be required to be drug tested for illegal use. The city will not hire anyone who tests "positive". Any applicant who is being considered for a position requiring a CDL, or who will be required to obtain a CDL after six months of employment, will also be tested for alcohol use.

2. *Random.* The city is required to randomly test for the illegal use of drugs and alcohol. Selection for random testing will be done by a third party computer program (the M.R.O.). Fifty percent of the safety-sensitive test pool will be tested yearly for the illegal use of marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). Twenty-five percent of the safety-sensitive test pool will be tested yearly for the use of alcohol.

3. *Post accident.* City employees involved in an on-the-job accident will be tested for the use of illegal drugs and alcohol within two hours after the accident, but no more than eight hours after the accident. For purposes of this policy, an accident is defined as an occurrence associated with the operator of a city vehicle that results in:

- a fatality; or

- an individual suffers bodily injury requiring immediate attention at a medical facility; or
- the vehicle involved in the accident suffers disabling damage requiring that it be towed away; or
- the arrest of the operator; or
- a citation is issued by law enforcement.

4. *Reasonable suspicion.* All employees are subject to a drug/alcohol test when there is a reason to suspect drug use or alcohol misuse immediately prior to, during, or immediately after performing job duties. A referral for testing will be made on the basis of specific, contemporaneous, articulable observation concerning the appearance, speech, behavior, or body odors of the covered employee which characterize prohibited drug use or alcohol misuse, such referrals will be made by supervisory personnel who are trained to detect the signs and symptoms of drug and alcohol use.

5. The following conditions are signs of possible drug or alcohol use but are not all inclusive:

- abnormally dilated or constricted pupils
- glazed stare - redness of eyes (sclera)
- flushed face
- change of speech (i.e. faster or slower)
- increased absences or tardiness
- sudden weight loss
- change in personality (i.e. paranoia)
- forgetfulness - performance/concentration problems
- borrowing money from co-workers or seeking an advance of pay or other unusual displays of asking for money
- constant fatigue or hyperactivity
- smell of alcohol
- slurred speech
- difficulty walking
- dulled mental processes
- slowed reaction rate.

6. When a supervisor has reason to believe that one or more of the above conditions are present, they should confront the employee involved and keep the employee under direct observation until the situation is resolved.

7. If an employee is identified as needing assistance in resolving problems associated with drug or alcohol misuses, the employee shall be evaluated by a substance abuse professional (SAP), as defined by the FHWA

regulations. The substance abuse professional will monitor the employee's compliance with any rehabilitation programs prescribed. The employee will be subject to unannounced follow-up tests directed by the substance abuse professional, and will consist of at least six tests in the first 12 months following the employee's return to duty.

(c) *Alcohol testing.* Testing for alcohol concentrations will be conducted using a National Highway Safety Administration (NHTSA) approved evidential breath testing (EBT) device operated by a trained technician (BAT). An employee who tests at an alcohol concentration of .02 or above on an initial screening test must be retested at least 15 nor more than 20 minutes after the completion of the screening test. This second test is called a confirmatory test. A confirmatory test showing an alcohol concentration of .02 to .039 will cause the employee to be removed from his or her safety-sensitive position for 24 hours; a test result of .04 or greater will be a violation of the rule. The individual must be evaluated by a substance abuse professional, follow and complete all recommendations to return to duty.

(d) *Compliance for request for testing.* Any employee who refuses a request for testing; who provided false information in connection with a test; who attempts to falsify test results through tampering, contamination, alteration, or substitution; who is unable to provide an adequate urine specimen and upon medical evaluation such inability is determined not to be genuine; who attempts and fails to provide an adequate breath sample without a valid medical reason; who does not arrive at the collection site in a timely manner; or who, without a valid reason, does not remain readily available before a test has been conducted shall be considered as refusing to be tested and removed from duty in compliance with DOT regulations, and in accordance with disciplinary procedures set forth by the city.

(e) *Safety-sensitive functions/job classifications to be tested in accordance with FHWA/DOT regulations.* In order to comply with FHWA/DOT regulations the job classifications listed below shall be considered safety-sensitive functions which are required to be randomly tested for drug and alcohol use in accordance with the requirements of the standard. The job classifications shall include those that require a CDL, and any other employees who maintain a CDL. Job classifications that will be tested:

- Driver
- Light equipment operator
- Heavy equipment operator
- Any other employees who maintain a CDL

(f) *Discipline.* Under FTA rules, discipline for drug and alcohol program violations is determined at the local level. The city discipline policy for alcohol misuse and/or drug abuse conduct follows below; however, individual circumstance pertaining to a positive drug test, and alcohol test with a concentration above .02, or a refusal to test may merit additional consideration.

1. Any employee whose test from a random test, reasonable suspicion, or post-accident basis shows an alcohol concentration of .04 or higher, or is positive for any drug as defined in section (F)(1) herein, or whose actions constitute a refusal will:

- Be removed from their safety-sensitive position.
- Be referred to and assessed by an SAP.
- Be subject to discipline subject to the filing of charges with the Non-Uniform Civil Service Board.
- If deemed necessary by the SAP, be referred to and complete a treatment and rehabilitation program.
- If allowed to return to duty, be seen by the SAP to determine compliance with any recommended or prescribed

Civil Service Employees

The City of Covington has repealed the Civil Service System; however, employees who previously held civil service positions have retained their individual civil service status. KRS guidelines will followed for these employees as it relates to discipline only.

KRS 90.360. Dismissal, suspension or reduction

- (1) No employee in the classified service of a city of the second or third class shall be dismissed, suspended or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law involving moral turpitude, or, in a city of the third class, violation of any rule adopted by the city legislative body or civil service commission.
- (2) Any person may prefer charges in writing against any employee by filing them with the mayor or other appointing authority who shall communicate the charges without delay to the civil service commission of the city. The charges must be signed by the person making them and must set out clearly each charge. The appointing authority shall, whenever probable cause appears, prefer charges against any employee whom he believes guilty of conduct justifying his removal. Upon the filing of charges the clerk of the civil service commission shall notify its members and serve a copy of the charges upon the accused employee with a statement of the days, place and hour at which the hearing of charges will begin, this hearing not to be held within three (3) days of the days of the service upon the accused employee. The day on which the charges and demand trial within three (3) days after they have been filed with the clerk of the civil service commission.
- (3) Upon the hearing the charges shall be considered traversed and put in issue, and the trial shall be limited to the issues presented by the written charges.
- (4) The civil service commission shall have the power to summon and compel attendance of witness at all hearings by subpoena issued by the clerk of that body and served upon the witnesses by members of the police department of the city or any officer authorized to serve subpoenas. If any witness fails to appear in response to a summons or refuses to testify concerning any matter on which he may lawfully be interrogated, any District Court Judge, on application of the commission, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the District Court. The accused employee shall have the right to have subpoenaed any witnesses he may desire, upon furnishing their names to the clerk. As many as ten (10) subpoenas may be served on the request of the accused employee without charge but each additional subpoena requested by him shall be issued by the clerk and served by the police department only shall be upon payment of fifty cents(\$0.50) to the city clerk by the employee. The action and decision of the civil service commission on the charges shall be reduced to writing and kept in the book for that purpose and the written charge shall be attached to the book containing the body's decision.

- (5) In cases where the head of the department or the appointing authority has probable cause to believe an employee has been guilty of conduct justifying his removal or punishment he shall immediately suspend that employee from duty or from both pay and duty pending trial and the employee shall not be placed on duty or allowed pay thereafter until the charges are heard by the civil service commission.
- (6) The civil service commission shall punish any employee found guilty by reprimand or a suspension for any length of the time not exceed six (6) months, or by reducing the grade, if the employee's classification warrants, or by combining any two (2) or more of these punishments, or by dismissal. No employee shall be reprimanded, removed, suspended or dismissed except as provided in this section.

(3235h-7, 3480e-7; amend. Acts 1944, ch.107, section 2; 1946, ch. 50, section 6; 1956, ch. 246, section 11; 1976 (Ex. Sess.), ch. 14, section 102, effective January 2, 1978.)