

## **CHAPTER 1 - PURPOSE**

### **1.01 Foundation of Policies and Procedures**

These policies and procedures are not intended to create a contractual relationship between the City and its employees, or to vary in any manner the employment relationship between the City and its employees.

These policies and procedures are adopted pursuant to and in accordance with Ordinance #094-162, effective February 1, 1996.

### **1.02 Applicability**

Unless otherwise provided herein, these policies and procedures shall apply to all employees of the City of Middletown, except that where a provision in a collective bargaining agreement is in conflict with a provision of these policies, the collective bargaining agreement will control.

For the purposes of this Policy and Procedure Manual, the Chiefs of Police and Fire Divisions are defined as Department Directors. The Assistants and/or Deputies in those divisions are defined as Division Managers.

### **1.03 Variation from Policies**

The City Manager may, in his sole discretion, vary from these policies in exceptional circumstances.

Questions concerning policies and/or procedures not expressly covered by these policies and procedures shall be interpreted and decided by the City Manager.

## **CHAPTER 2 - CITY COUNCIL AGENDA PROCEDURE**

### **2.01 Meetings of City Council**

City Council is required by the Charter of the City of Middletown to meet in regular session at least twice each month. It is the practice of City Council to meet on the first and third Tuesdays of each month, but such meetings and any additional meetings are subject to the determination of City Council. Special meetings of the City Council shall be handled in compliance with provisions of Charter and/or state law.

### **2.02 Agendas, Tentative and Final**

All agendas for City Council meetings shall be considered “tentative” and subject to change until 24 hours prior to the scheduled meeting, at which time they shall become the “final agenda.”

### **2.03 Agenda Preparation**

The Agenda for the business meeting shall be created in advance of the meetings. The City Clerk’s Office shall be responsible for assembling the business meeting agenda. As previously delegated by the City Council, the City Manager shall give advanced approval for proposed items on the agenda.

### **2.04 Agenda Materials, Format and Deadlines**

To ensure proper review and approval by the City Manager of all agenda items, staff reports shall be prepared for all items needing to go before the City Council. They shall be in the format of Form 1.2.1.

An electronic copy of the Staff Report shall be submitted to the City Manager by 5:00 p.m. on Monday of the week preceding the City Council meeting. The electronic copy

shall be saved to the City's K drive, under agenda folder, under staff reports. The agenda and the complete packet will be posted on the City's official web site by the Clerk's office. A hard copy of the staff report, with all attachments, should be directed to the Law Director for writing of the legislation and to the Clerk of Council for advance notice of potential agenda items. Items requiring research by the Law Director or requiring time-consuming preparations, such as contracts or agreements, should be submitted at the earliest possible time prior to the deadline.

Items shall not be placed on the Tentative Agenda until the City Manager has given approval.

Legislation will be prepared by 5:00 p.m. on Tuesday of the week preceding the City Council meeting. The final agenda and packet will be submitted to the City Manager by 10:00 a.m. Wednesday preceding the City Council meeting.

#### **2.05 Late Submission of Emergency Agenda Items**

Urgent agenda items submitted after the deadline may be approved by the City Manager if their delay to the next meeting would cause significant harm to the City and if there was justifiable reason for missing the deadline.

#### **2.06 Agenda Distribution**

The Tentative Agendas will be distributed to City Council the Friday preceding the City Council meetings. City Council may recommend changes to the Tentative Agenda.

Final Agendas will be distributed to news media representatives and others on Monday afternoon, at least 24 hours preceding the City Council meeting.

Complete packets, including the agenda materials will be made available with the Final Agenda.

The Clerk of the City Council will provide the following distribution of all agenda materials. There will be twelve complete packets of agenda materials distributed as follows:

- 7 - City Council packets
- 1 - City Manager packet
- 1 - Law Director packet
- 1 - City Clerk packet
- 2 - News Media packets

## **CHAPTER 3 - ACTING CITY MANAGER**

### **3.01 Procedure**

The City Manager may appoint an Acting City Manager to serve in his/her absence. If the City Manager fails to appoint an Acting City Manager, the position of Acting City Manager shall be filled in the following order: Law Director, Director of Public Works & Utilities, Director of Community Revitalization and the Chief of the Division of Police.

## **CHAPTER 4 - Acting Department Director**

**4.01** Each Department Director shall designate an individual to serve in his/her absence. In the absence of the individual designated by the Department Director, the position of Acting Department Director shall be filled in the order determined by the Department Director. Such designation shall be kept on file in the City Manager's office and the Personnel Division.

Should it be necessary to change the designation of the Acting Department Director, a memorandum to that effect will be issued by the Department Director to the City Manager and copied to the Personnel Division.

## **CHAPTER 5 - ADMINISTRATION OF OATHS OF OFFICE**

### **5.01 Administration or Affirmation of Oath**

Each newly employed, full-time, and part-time employee will be sworn in or affirmed as required by the City Charter. Copies of the Oath of Office will be made for the employee's personnel file and the Clerk of City Council, who will present it to the City Council to be received and filed.

## **CHAPTER 6 - REQUESTS FOR LEGAL OPINIONS**

### **6.01 Role of Legal Advisor**

The Law Director is the legal advisor to the City Council, City Manager, Boards and Commissions, and Department Directors and Division Managers. He/She is also the Chief Prosecutorial Officer. This policy prescribes conditions and procedures for requesting written legal opinions.

### **6.02 Procedure**

Request Origination - Only the City Manager, the Assistant City Manager, Department Directors and Division Managers may request written legal opinions from the Law Director, who will honor only such requests.

Request Format - All requests shall be in writing, with a copy of the request marked for the attention of the City Manager. The Law Director will not honor any request which does not indicate a copy for the City Manager.

Manner of Reply - All legal opinions from the Law Director shall be in writing, and issued as promptly as possible with a copy marked for the City Manager.

### **6.03 Health Department**

The City Law Department shall provide legal representation for the Board of Health, the Health Commissioner, and the Health Department in accordance with paragraph 2 of the Agreement of March 3, 1995, which states:

If a majority of the members of the Board of Health believes, on any matter or issue, that dual representation of the Board and the City by the City Law Department is precluded by the Code of Professional Responsibility or ethical considerations thereunder, the Health Commissioner shall so advise the City Manager. If the City agrees with the Board's retention of outside counsel, the Board will follow the procedures below for selection of outside counsel. If the City disagrees, or it chooses not to decide the matter, or if it does not respond within twenty-one

days, the matter will then be submitted to the executive board of the Middletown Bar Association. The Association's determination of whether or not the Board may hire outside counsel will be final as to that matter or issue.

Upon a determination that the Board may hire outside counsel, The Board shall submit to the City the names of three attorneys, whose offices are located in Middletown or whose offices are located in Butler County and who reside in Middletown, Ohio. The City may strike one of the names from the list. The Board of Health may then choose one of the remaining two attorneys to represent it.

If outside counsel is authorized in accordance with this Agreement on another issue, the Board of Health may either retain counsel previously selected in accordance with the Agreement, or may use the procedure in the previous paragraph to select counsel.

## **CHAPTER 7 - PROGRESS/PERFORMANCE REPORT SYSTEM**

### **7.01 Monthly Reports**

Monthly progress/performance reports must be generated by each department/division using the progress/performance reporting system and submitted to the City Manager's office. The data may not be changed or altered without the approval of the City Manager or his/her designee. Additional information may be included as necessary. Each department is responsible for the maintenance of the data in the system. Reports should be submitted to the City Manager's office as soon as possible after the close of each month and in any event no later than fifteen (15) days after the end of the month.

## **CHAPTER 8 - CHANGES TO POLICY AND PROCEDURES**

### **8.01 Annual Policy Update**

- A. The Policies and Procedures will be reviewed regularly by the City Manager or their designee.
- B. Upon approval by the City Manager, changes will be implemented and made available either in hard copy or electronically to all personnel.

## **CHAPTER 9 - POPULATION ESTIMATES**

### **9.01 Department Responsible for Population Estimates**

The Department of Planning shall be responsible for making population estimates in accordance with an established formula as determined by the said department.

### **9.02 Population Estimates**

An estimate of the corporate population shall be made annually at mid-year for the preceding one-year period, and such estimate shall be available prior to the beginning of the fourth quarter of the calendar year.

Annexation - When an area is annexed to the City, the Department of Planning shall upgrade the population estimated by the number of residences within the annexed area and submit reports as outlined below.

### **9.03 Reporting Population Estimates**

A report of the population estimate shall be submitted to the City Manager each year, not later than the beginning of the fourth quarter, with sufficient copies for distribution to the City Council members.

The report shall contain the estimate for the previous reporting period, the percentage increase due to normal growth, the increase resulting from annexation, and the new population estimate for the reporting period. The population estimate shall also be communicated to all departments within the City organization.

### **9.04 Official Population**

The City organization and its departments shall recognize the population estimates of the Department of Planning as being official and any correspondence or reports referring to Middletown's corporate population shall be the same as that official estimate.

## **CHAPTER 10 - USE OF CITY PROPERTY**

### **10.01 Prohibition for Private Use**

The use of City property, equipment and supplies for private use is prohibited. Any item which is furnished by the City is for public use only and is not to be used for private or individual benefit. No item of value shall be removed from City property or jurisdiction except for public use.

### **10.02 Disposal/Transfer**

Any item of value which is no longer needed by a department shall be promptly reported to the Finance Director for disposal or transfer per Chapter 36.

### **10.03 Enforcement**

It shall be the responsibility of all supervisory employees to see that this policy is strictly enforced. Anyone violating this policy may be subject to disciplinary action.

### **10.04 Exception**

In the event that a citizen or group of citizens request(s) to use City property for a specific, short term purpose, such request will be forwarded to the Department Director or his designee for approval and the citizen or group of citizens must complete and sign the Rental Agreement (Form 1.12.4). A fee of \$1 will be charged.

## **CHAPTER 16 BUDGET**

### **16.01 Purpose**

To outline the procedures to be used by City Departments in the preparation of annual budgets and the process through which the appropriations ordinance is adopted.

### **16.02 Responsibility**

#### **A. City Manager**

As one of his/her charter mandated duties, the City Manager is responsible for the preparation and administration of the annual budget.

#### **B. Finance Director**

Under the direction of the City Manager, the Finance Director will prepare a budget document for submission to the City Council and will assist all departments in the preparation of budget requests by providing the following:

- 1) The City's Financial Plan that includes all revenue and expenditure forecasts for the upcoming year;
- 2) Budget information which includes all personnel and fringe benefit costs for the upcoming year and budget information for the previous and current year for each department/division by line item;
- 3) Budget preparation instructions including: Budget Form No. 2, Line Item Requests and Justification (Form 3.1.2.); Budget Form No. 3, Capital Outlay Requests and Justification (Form 3.1.3.); and, any specific instructions for electronic budget submission.
- 4) A budget calendar that lists all budget deadlines.

#### **C. Department Directors**

Each Department Director is ultimately accountable for the preparation and administration of that departmental budget.

#### **D. City Clerk**

The Clerk of City Council is responsible for the preparation and administration of the City Council budget.

E. Board of Health

The Board of Health must review and approve the Health Departments budgetary requests prior to submission of that budget to the Finance Director and City Manager.

**16.03 Budget Submission Procedures**

The annual budget preparation begins with the formal adoption of a financial plan at the beginning of the third quarter of the year preceding the fiscal budget year. Department Directors shall submit budget proposals consistent with the provisions of the financial plan at the time prescribed by the budget calendar. From those proposals and under the direction of the City Manager, the Finance Director shall prepare a budget for submission to the City Council.

**16.04 Adoption**

After reviewing and amending the proposed budget, the City Council takes legislative action to authorize the city's financial activities for the upcoming fiscal year.

**16.05 Supplemental Appropriations**

Supplemental appropriation resolutions are presented throughout the year to the City Council whenever an increase in the annual appropriation resolution is necessary. Supplemental appropriations are also needed whenever an appropriation transfer between divisions is required. Supplemental appropriations must be approved by City Council before an expenditure, not included in the annual appropriation legislation, may be made.

Appropriation Procedure:

- 1) Department Director requests the supplemental appropriation in writing to the Finance Director. (The Health Commissioner is required to obtain the approval of the Board of Health.)

- 2) The Finance Director prepares the legislation and the staff report for review of the Law Director and the City Manager.
- 3) The Finance Director presents the legislation at the next City Council meeting.
- 4) City Council approves; department is notified; purchase order (if applicable) is prepared.

## **CHAPTER 17 - EXPENDITURE CONTROL AND BUDGET ADJUSTMENT**

### **17.01 Purpose**

This procedure is to closely control approved budgets, while providing department managers with the necessary flexibility to make decisions and better meet their performance objectives.

### **17.02 Expenditure Control**

No purchase requisition or claim voucher shall be processed without an adequate unencumbered appropriation in the line item(s) from which the expenditure is to be made.

- A. Department Directors are responsible for controlling their respective budgets and ensuring that line items are not over expended; for making necessary budget adjustments; and for effectively carrying out approved programs.
- B. All expenditures shall be made from properly defined line items.
- C. This procedure is not intended to conflict with emergency purchasing regulations nor shall it override present emergency purchasing procedures.

### **17.03 Transfer Limitation**

Administrative budget transfers may not exceed ~~\$10,000~~**25,000** if they are between expenditure categories. All transfers in excess of ~~\$10,000~~**25,000** and between expenditure categories must be approved in advance by the City Council.

### **17.04 Budget Adjustment**

If, when desiring to make a purchase, an insufficient unencumbered balance exists, a budget adjustment shall be made prior to processing the purchase. This may be accomplished in one of two ways:

1. Transfers within the same budget division and within the same expenditure category (personal services, contractual services, commodities, and capital outlay):

- a. The Division Manager shall initiate a budget adjustment by entering the following information in the Budget Transfer System:
    - 1) Identify the line item that will be reduced and the amount by which it will be reduced.
    - 2) Identifying the line item to be increased in an equal amount.
    - 3) Explain and justify the adjustments
  - b. The transfer request will be electronically routed to the Department Director for approval. Any request in excess of \$3000 will be routed to the City Manager for approval. After all approvals have been obtained, the budget adjustment will be routed to the Assistant Finance Director under the direction of the Finance Director, who will complete the transfer process.
  - c. The City Manager or Finance Director may initiate a budget adjustment by using the same process described in (a) above. Each adjustment shall be discussed with the Department Director before the adjustment is made.
2. Transfers within the same budget division and between expenditure categories (personal services, contractual services, commodities, and capital outlay). City Manager, or designee, approval must be obtained before transfer process is initiated.
- a. The Division Manager shall initiate a budget adjustment by entering the following information in the Budget Transfer System.
    - 1) Identifying the line-item(s) that will be reduced and the amount by which it will be reduced.
    - 2) Identifying the line item to be increased in an equal amount.
    - 3) Explaining and justifying the adjustment.
    - 4) The transfer request will be electronically routed to the Department Director, City

Manager, and the Finance Director for approval. After all approvals have been obtained, the budget adjustment will be routed to the Assistant Finance Director under the direction of the Finance Director, who will complete the transfer process.

- b. The City Manager or Finance Director may initiate a budget adjustment by using the same process described above. Each adjustment shall be discussed with the Department Director before making the adjustment.
- c. All transfers between expenditure categories in excess of ~~\$10,000~~**25,000** must be approved in advance by the City Council.

## **CHAPTER 18 - TRAVEL REGULATIONS AND REIMBURSEMENTS**

### **18.01 Purpose**

The purpose of this regulation is to provide guidelines to City officials and employees in planning for business-related travel as well as reimbursements for expenses. This requirement does not apply to travel within a 100-mile radius that occurs in one day and involves the employee's regular working duties.

### **18.02 Requirements**

Prior to any business related travel, all such travel shall first be approved by the employee's Department Director. The Board of Health must approve any Health Department travel requests for trips of 8 hour duration or more costing \$20 or more. Any business related travel to any destination out of the State of Ohio should also be approved at least five (5) working days in advance by the City Manager or his/her designee.

All reimbursements for business-related travel shall be in accordance with budgetary approval and/or the approval of the City Manager.

Employees should be moderate in expenses incurred with regard to lodging, meals, and transportation. If extraordinary expenses are anticipated, prior approval of the City Manager should be obtained.

- A. A "Request For Business Related Travel" (Form No. 3.3.2A) must be submitted through the City's electronic travel request system and approved before a cash advance is issued by the Finance Department. If a cash advance is required, a request for cash advance must be turned into the Finance Department 5 days before departure. A cash advance for a business trip will not be given to any employee who has a previous cash advance outstanding. Advances shall only include mileage and per diem. Other expenses shall not be advanced, except with prior approval of the City Manager. Form 3.3.3(F) must be submitted within two weeks of the employee's return date.
- B. When justifiable and extraordinary circumstances exist, the City Manager may approve variations to this policy.
- C. Travel Expense Forms - for audit purposes, form 3.3.3(F) is to be completed and submitted, accompanied by a claim voucher, or a cash and receipts report, and the required billing statements and receipts.

- D. Additional Information - The Department of Finance may request additional information to support travel expenses before reimbursement.

### **18.03 Reimbursement Provisions**

- A. All registration fees shall be prepaid by the City. The fees will be sent directly to the appropriate organization/meeting place upon approval. The employee must attach a brochure or similar notice listing the meeting name, location, and registration fee to the claim voucher submitted for prepayment.
- B. Transportation - Employees are encouraged to use city vehicles for all business trips of less than twenty-four (24) hours duration within 200 miles.

Employees who use a personal vehicle for business-related travel will be reimbursed at a per mile rate established by the Internal Revenue Service (IRS) for purposes of tax deduction. Current IRS rates are kept on file in the Finance Department. Employees who use a personal vehicle for business related transportation/travel must submit and carry proof of liability insurance in the amount of \$100,000/\$300,000. The proof of insurance must be submitted to the Finance Director on an annual basis. The City provides an automobile personal liability umbrella insurance policy for amounts in excess of this level.

Expenses for commercial transportation will be reimbursed based on the actual cost of employee travel. Employees are encouraged to have such costs paid directly to the provider by the City or charged to the City credit card.

In no event shall the transportation reimbursement exceed the lesser of: 1) the cost of reasonable commercial airfare or 2) the mileage reimbursement for the use of the employee's private vehicle.

- C. Lodging - In all cases, receipts will be required in support of lodging expenses. Where possible, lodging expenses shall be paid directly to the provider by the City or charged to the City credit card.
- D. Meals - Per Diem - Employees who conduct City business, which necessitate overnight lodging, shall receive a daily meal allowance in accordance with the federal per diem as recognized

by the IRS. Current IRS rates are kept on file in the Department of Finance. If the employee is attending a conference, seminar, etc., and meals are provided as part of that conference, seminar, etc., the allowance shall be reduced by 25% if breakfast is provided, 25% if lunch is provided, and 50% if dinner is provided. Employees are responsible to provide evidence of the per diem allowance available to them.

Reimbursement - All other meal reimbursement requests shall be accompanied by receipts and shall not exceed the per diem allowance set forth in the previous paragraph for the employee. Business-related meals for other persons purchased by the City Manager will be reimbursed when accompanied by a receipt. With the prior approval of the City Manager, Department Directors may also be reimbursed for business-related meals for other persons when accompanied by a receipt.

No reimbursement shall be given for alcoholic beverages. Tips are included in the per diem allowance and shall be given in reimbursement situations only when the amount is not more than 20% of the reimbursable receipt.

- E. Other Business-Related Expenses - Cab fare, rental cars, and business telephone expenses will be reimbursed upon submission of receipts or billing statements. Personal long distance calls to one's home that are charged to the employee's hotel room will be paid by the City to a maximum of up to \$5.00 per day. Calls made on the City's long distance calling card to one's home will be limited to fifteen (15) minutes per day. Rental cars shall be reimbursed only upon proof of a business necessity for such rental by the employee. The City of Middletown's insurance policy provides liability coverage on hired autos. City employees are asked not to purchase additional liability coverage from the vehicle rental company.

All requests for travel reimbursements must be submitted to the Finance Department within five working days of the employee's return.

- F. All appropriate forms must be completed before any reimbursement will be made to the employee (Travel Expense Form 3.3.3F). The employee may be required to submit additional information regarding the reimbursement request at the discretion of the Finance Director.

## 18.04 Guidelines for Budgeting - Travel and Training

- A. Department Directors are responsible to ensure that expenditures stay within approved allocations and that resources are used as originally intended. The following guidelines shall be used in establishing the departmental travel and training budget.
- B. The intent of sections 1 through 4 below is to establish greater local influence over un-funded mandates and to influence policy development of state and federal legislation.
  - 1. The City Manager should annually attend the national ICMA, state OCMA, and Ohio Municipal League conferences.
  - 2. Department Directors should attend a national conference and a state conference annually.
  - 3. Division Managers or assistant department directors or their equivalent should attend a state conference annually and should attend a national conference every three years. Exceptions may be approved by the City Manager.
  - 4. The Chiefs of the Division of Fire and Police should be treated as Department Directors and the assistant chiefs and deputy chiefs in these divisions shall be treated as Division Managers for purpose of this section.

In addition, Division Managers are those managers of the following operations for the purposes of this policy:

Billing & Collection	Planning/Zoning
Building Inspection	Purchasing
Community Center	Taxation
Community Development	Transit
Engineering	Treasury
Health	Treatment Plants
Information Systems	Weatherwax Golf Course
Law	

- 5. Persons holding positions described above who are within 180 days of separation from employment (retirement, resignation) shall be exempted from the foregoing guidelines, and in this event, such travel is prohibited.
- 6. Mandatory training requirements should be included in the department travel and training budgets in a separate line

item. Any person attending state and national conferences pursuant to the above paragraphs of this section should make all efforts for such attendance to meet mandatory training requirements. A mandatory training conference is training that is necessary to obtain and/or maintain a certification, license, CEU, or other accreditation needed by the City to perform a necessary function or service.

- C. Any other employee not covered by this section is encouraged to take active leadership roles. However, these and all other discretionary conferences or training seminars for any employee are considered in a secondary priority to the above guidelines and shall not supersede them.

## **CHAPTER 19 - PAYROLL POLICIES**

### **19.01 Purpose**

To establish policies and regulations for payroll periods, payroll voucher reporting schedules, paycheck distribution, advance pay procedures, emergency pay, and payroll certifications.

### **19.02 Payroll Periods**

- A. Hourly Personnel - Hourly personnel shall be paid weekly for work performed during a seven (7) day period beginning at 12:00 a.m. on Sunday and ending at 12:00 a.m. the following Sunday.
  
- A. Bi-Weekly Personnel - Bi-Weekly personnel shall be paid biweekly for work performed during a fourteen (14) day period beginning on Sunday and ending on the second Saturday thereafter.

### **19.03 Payroll Voucher Reporting Schedule**

Payroll vouchers shall be completed by each department and submitted to the Treasury Division as outlined below:

- A. Hourly Payrolls - Payroll vouchers for hourly personnel shall be completed, approved by the Department Director, and submitted to the Treasury Division each Tuesday by 12:00 noon, or sooner. Paychecks for this payroll will be available for distribution as specified in 19.04A below.
  
- B. Bi-Weekly Payrolls - Payroll vouchers for salaried personnel shall be completed, approved by the Department Director, and submitted to the Treasury Division on the Monday immediately following the last day of the pay period by 2:00 p.m., or sooner. Paychecks for this payroll will be available for distribution as specified in 19.04B below.

### **19.04 Distribution of Payroll Checks**

Payroll checks for wages and salaries shall be prepared by the Treasury Division and made available for distribution according to the following schedules when payroll vouchers are submitted according to the schedules outlined in 19.03A and B above:

- A. Hourly Personnel - Weekly payroll checks shall be completed and ready for distribution on each Friday.
- B. Bi-Weekly Personnel - Biweekly payroll checks shall be prepared and ready for distribution on the Thursday immediately following the last day of the biweekly payroll period. Distribution of the checks shall be made on the said Thursday.
- C. Distribution Policy for Treasury Division- Payroll checks for each department shall be forwarded by the Treasury Division to each department whose office is located in the City Building, in accordance with the above payroll distribution schedules (Paragraph A and B). Departments whose offices are not located in the City Building may make arrangements for their checks to be picked up also in accordance with the above distribution schedules. (No employee will be permitted to pick up his/her personal payroll check from the Treasury Division office unless an emergency exists.)
- D. Distribution Policy for Other Departments - Each Department Director shall establish a time, subsequent to the release of paychecks by the Treasury Division, for distributing payroll checks to the employees within his/her department. This distribution time shall be scheduled so as to not disrupt the work of personnel and once established, the policy shall be adhered to. Department Directors may change their designated time for releasing paychecks if deemed necessary.
- E. Emergency Provisions - If an employee has an emergency which creates a need for the paycheck, he/she may request permission from his Department Director to personally pick up the paycheck. If the Department Director approves of the request, he/she shall notify the Finance Department accordingly and the employee may get his/her check at the Finance Department office.

**19.05 Advance Pay Policy**

For the convenience of City personnel, advance pay shall be made in accordance with the following policy:

- A. Vacation Pay Advances for Weekly and Bi-Weekly Payrolls

Before an advance is given, the employee must have earned the days requested.

Advance vacation request forms 3.4.5A must be completed and submitted to the Treasury Division in accordance with the reporting schedule listed in 19.03 A and B.

- B. Other Advance Pay - Advance pay for other than vacation purposes shall not be given except when an emergency exists. Emergency advance pay may be given if approved by the Department Director and the City Manager in accordance with the Treasury Division policies.

## **CHAPTER 20 -GARNISHMENT POLICY**

### **20.01 Purpose**

In the event an employee's wages are to be garnished (applied to payment of a judgment against the employee or of an employee's debt or other financial obligation directly), a court of competent jurisdiction notifies the employee of that action. The Treasury Division affects the order and provides no further notification to the employee.

### **20.02 Documentation**

The first time an employee's check is garnished, the employee will receive the following documents:

- a. A copy of "Affidavit for Order of Garnishment of Personal Earnings", and answer of employer form.
- b. A "Request for Hearing".

### **20.03 Amount of Garnishment**

The amount of the garnishment will be the greater of:

- a. 25 percent of the amount that is gross pay less deductions required by law excluding child or spousal support deductions.
- b. Treasury Division is allowed the processing fee allowed by law each time a garnishment is honored.

### **20.04** All other garnishment provisions will be processed in accordance with House Bill 294, a copy of which is on file in the City Treasurer's Office.

## **CHAPTER 21 - PRE-AUDITING CLAIM VOUCHERS AND PURCHASE ORDERS**

### **21.01 Purpose**

This procedure is established to enforce Article III, Section 14 of the City Charter which provides that, "No money shall be drawn from the Treasury of the City nor shall any obligation for the expenditure of money be incurred except pursuant to appropriations made by the City Council in the manner provided by law."

### **21.02 Responsibility of Department Directors and Division Managers**

Department Directors and Division Managers are responsible for maintaining adequate records to assure that they or their subordinates do not obligate the City to the expenditures of any funds which are not pursuant to appropriations made by the City Council.

Each month, each department and division will be able to print an electronic summary of the status of each expenditure account for its respective operation as of the end of the previous month. These reports will show the remaining funds in each expenditure account, and no department or division will submit any claim voucher or purchase order or obligate the City to the expenditure of any funds in excess of the balance in any one account without the prior approval of the Finance Director.

### **21.03 Pre-Audit by Finance Department**

With the exception of expenditures for purposes listed in 22.02, all claim vouchers and purchase orders will be audited by the Finance Director or his designee before the contracts and/or commitments are made requiring expenditure of funds.

## **CHAPTER 22 - CLAIM VOUCHER PAYMENT**

### **22.01 Procedure**

Departments will forward all claim vouchers and purchase orders to the Finance Director for payment. All approved claim vouchers and purchase orders shall be signed by him/her. The Finance Director or his/her designee will certify that the document has the proper code, that funds to cover the expenditure have been budgeted and are available, and, that the expenditure is justified.

### **22.02 Exception to Purchase Order Requirements**

There are special circumstances when the use of an original purchase order is not required and a claim voucher is allowed. These are as follows:

#### **Utility Bills**

It is impractical to issue an original purchase order for utility payments when the service has already been received by the City when the invoice is received. All utility bills are to be paid from claim vouchers.

#### **Newspaper/Advertising Bills**

Again, it is impractical to issue an original purchase order for advertising costs when the advertisement has already been published in the newspaper. Advertising costs are to be paid from claim vouchers prepared by the department incurring the cost. Legal Notices are to be paid from claim vouchers prepared by the City Council office.

#### **Emergency Purchases**

Emergency purchases must be authorized in advance by the Department Director. Emergency purchases are verbal commitments to the vendor that the City will be responsible for payment of the vendor's invoice upon receipt of the goods. Emergency purchases are to be kept to a minimum and must be true emergencies. True emergencies are defined as situations that have the immediate potential of adversely affecting the health, safety and/or welfare of the citizens of Middletown.

#### **Negotiated Purchases**

The Purchasing Agent, under the direction of the Finance Director, will notify all departments in writing of each contract he/she has negotiated (i.e., office supplies, janitorial supplies, etc.). This notification will list the vendor, price to be paid, and contract duration. City departments are then authorized to request budgeted items from the vendors for their departments since the actual amount spent will vary month to month depending upon need. Payments to these vendors may be made by claim voucher referencing the appropriate bid number.

### **Maintenance Contracts**

All maintenance contracts that are to be paid in one lump sum and cannot be purchased through competitive pricing will be paid on claim vouchers.

### **Travel, Training, Memberships and Dues**

Travel, training, memberships and dues can be paid by claim voucher and will not go through the purchasing process. Books and periodicals over \$500, however, will still need to go through purchasing.

## **22.03 Claim Voucher Preparation**

Claim vouchers shall be prepared, using form 3.7.7, and submitted to the Finance Department. The form must be completed in its entirety. All checks will be mailed to the vendor by the Finance Department. If you request the check be returned to your Department, you will need to specify this request on the claim voucher. The Finance Department will send the check to your Department with a form to be signed that you will mail or deliver the check to the vendor.

## **CHAPTER 23 - CASH AND RECEIPTS**

### **23.01 Purpose**

The Ohio Revised Code requires that all public funds be deposited in the City Treasury within 24 hours of collection. Funds collected on weekends and holidays must be deposited in the City Treasury on the next banking day. Except for those areas that use the night depository for cash security purposes, all deposits must be brought to the Treasury Division for verification and depositing on a daily basis.

### **23.02 Procedure**

The cash and receipts report (Form 3.8.3) must accompany all monies brought to the Treasurer's office for deposit. If the cash and receipts report and the revenue collections do not balance, any shortage or overage must be reported to the Finance Director or Assistant Finance Director immediately. Any shortage may be deemed a theft and the cash custodian may be subject to disciplinary action. All cash will be verified by the Finance Department in the presence of the depositor. Copies of the verified cash and receipt reports will be sent to the depositing departments on a weekly basis. These forms serve as the department's receipt for their deposits. Departments should maintain these records in accordance with their designated retention schedule.

### **23.03 Cash and Receipts Report**

The cash and receipt report (Form 3.8.3) must be complete and signed by the individual responsible for the cash and receipt report before any cash or receipts are deposited in the City Treasury. The forms are provided by the City Treasurer's office

## **CHAPTER 24 - PETTY CASH PROCEDURES**

### **24.01 Definition**

Petty cash has been established to expedite miscellaneous purchases and to allow payment of small bills that need not be handled through the City's regular purchasing procedures (i.e. preparation of a separate purchase order or claim voucher, administrative approval, check issuance). Petty cash can only be used when the purchase does not exceed \$30.00 when the supplier requires cash payment, and when the items purchased are needed immediately. Petty cash funds are not to be used for the purpose of avoiding or circumventing the established purchasing procedures of the City of Middletown.

### **24.02 Petty Cash Balances**

Authorized balances in each petty cash fund are and all change funds shall be established by the Finance Director in conjunction with the appropriate Department Director.

### **24.03 Requirements for the Use of Petty Cash**

There are three requirements for the use of petty cash. All three requirements must be met before petty cash can be used.

1. The purchase must not exceed \$30.00
2. The supplier requires cash payment.
3. The items purchased are needed immediately.

The following items may not be purchased using petty cash:

1. Items that can be regularly purchased through normal procedures.
2. Items costing more than \$30.00
3. Payment for personal services.
4. Loans to employees.
5. Cashing of personal checks.
6. Travel cash advances to employees in excess of \$30.00

### **24.04 Petty Cash Disbursement Procedures**

A petty cash slip must be completed and signed by the employee and approved by the department/division petty cash custodian before cash is given to an employee. A sample petty

cash form (Form 3.9.4) is the only petty cash form allowable. These forms will be provided by the Finance Department.

After the petty cash slip is completed and signed by the employee, the vendor invoice/ bill for which the employee is requesting reimbursement is attached to the completed slip. All requests for petty cash reimbursement must be accompanied by the vendor invoice/bill for which the employee is requesting reimbursement. All invoices and bills turned in by employees for reimbursement to the employee from petty cash must show the word "PAID" or otherwise indicate a cash payment was received by the vendor. The name of the vendor must appear on the invoice/bill being presented for reimbursement.

The completed petty cash slips and attached invoices are retained in the department/ division petty cash box until the department /division submits a claim voucher to Finance to replenish the petty cash supply.

#### **24.05 Advances from Petty Cash Funds**

On rare occasion, the need arises for an employee to receive a cash advance from a petty cash fund for business related expenses. The City credit card should be used for these type of expenses whenever possible. Cash advances from petty cash should be restricted to non-recurring expenditures and cannot be for more than \$30.00

The employee who requests an advance of petty cash must also complete form 3.9.4.

After issuing a petty cash advance, the petty cash custodian files form 3.9.4 in the petty cash box. When a receipt(s) related to a petty cash advance is submitted, the petty cash custodian attaches the receipt to the completed form in the usual manner.

If receipts for petty cash advances are not submitted within twenty-four hours of the advance, the petty cash custodian will notify the proper Department Director/Division Manager. Petty cash advances outstanding for more than forty-eight hours must be reported to the Finance Director, who will take appropriate action to ensure that the advance is returned immediately.

#### **24.06 Petty Cash Replenishment**

Petty cash funds shall be replenished from time to time by the petty cash custodian in the following manner:

- A. The department/division custodian must complete a reconciliation of his or her petty cash fund using the petty cash reconciliation form 3.9.6 provided by the Finance Department. Directions for performing this reconciliation are outlined in 24.07.
- B. The completed petty cash slips with the paid invoices attached are placed inside the petty cash envelope after the petty cash reconciliation has been completed and approved by the department/division custodian and the Department Director/Division Manager, respectively.
- C. The department/division petty cash custodian then prepares a claim voucher to replenish his or her petty cash. The account numbers on the claim voucher are the same account numbers which appear on the face of the petty cash reconciliation envelope.
- D. The petty cash reconciliation envelope containing the petty cash slips and paid vendor invoices is attached to the claim voucher. The claim voucher is then signed by the Department Director/Division Manager and sent to the Finance Department.
- E. The Finance Director certifies the claim voucher and the accounts payable check is processed. It will be returned to the petty cash custodian.
- F. The custodian then cashes the check and returns the money to the petty cash box.

Petty Cash Audits - The Assistant Finance Director will perform audits of each petty cash fund at least once during each fiscal year. The audits will be performed randomly with no advance notice. Results of all audits will be reported to the Finance Director and the City Manager.

#### **24.07 Directions for Completion of Petty Cash Reconciliations**

All petty cash funds will be reconciled on a monthly basis using Form 3.9.6.

Amount of total cash on hand and total completed cash slips on hand should equal established balance. Any shortage of funds must be paid by the custodian. Any overage of funds must be deposited.

**SIGNATURE OF PERSON RECONCILING** - Department Director/Division Manager/Petty Cash Fund Custodian

**SIGNATURE OF SUPERVISOR** - Department Director/Division Manager

## **CHAPTER 25 - FINANCIAL LIABILITY**

### **25.01 Purpose**

Consistent with Section 9.39 of the Ohio Revised Code and to assure the safeguarding of public funds, the following policy is hereby established for the handling of public funds.

### **25.02 Accounting Records and Financial Controls**

It shall be the responsibility of the Finance Director to see that records as prescribed by, and acceptable to, the State Auditor, are kept of the collection or disbursement of any funds within all departments. It shall also be the responsibility of the Finance Director to establish procedures designed to safeguard public funds.

### **25.03 Financial Liability**

Employees assigned to the collection or disbursement of funds shall be financially liable for these funds to the following extent:

#### **A. Shortage**

Should a shortage of cash occur where full-time City employees are responsible for the collection and disbursement of cash, the full-time employee shall make up such shortage. An employee is responsible for the collection and disbursement of cash when that each full-time employee has been given a locked cash drawer and no other person has access to it.

Should a shortage of cash occur in City divisions in which part-time or seasonal employees are directly responsible for the collection and disbursement of cash, such shortage will be noted on the cash over/cash short daily report maintained by the division. This cash over/cash short report will be reviewed by the Division Manager daily and by the Finance Department quarterly. Division Managers are responsible for taking corrective action with their employees to minimize the cash over/cash short record. Seasonal and part-time employees are not required to make up cash shortages.

As an additional control on cash over/cash short activity, the Finance Department will maintain a cash over/cash

short account on its records for the Recreation and Pools Divisions and the City Golf Clubhouse Division.

**B. Overage**

If an overage occurs, such funds will be turned in to the Assistant Finance Director at the next reporting period. Should it later be found that an accounting error occurred, the records shall be adjusted at the next reporting period.

**C. Check Acceptance**

Checks that are accepted in the exact amount of the bill for services or other payments due the City and are returned by the bank without payments due the City will be returned to the collecting department by the Assistant Finance Director. In this instance, the person accepting such a check will not be liable for the amount, but collection procedures will be instituted by the department.

**D. Check Cashing Policy**

Except for official purposes, checks are not to be cashed unless they are in payment of taxes or other liabilities due the City, or for goods or services rendered. Personal checks will not be accepted which are in excess of the amount due the City. No third party checks will be accepted. Any check in excess of the amount due the City may be accepted subject to the approval of the Department Director provided it does not exceed \$25.00 over the amount due.

**25.04 Safeguards for Public Funds**

It is the responsibility of the Department Director entrusted with any public funds to see that such funds are safeguarded while in his or her subordinates' possession.

- A. If the Department Director fails to implement procedures established by the Finance Director for the safeguarding of public funds, he/she will be held liable for any shortages that might occur.
- B. If the Department Director has in fact, established proper procedures and a subordinate fails to follow such

procedures, then the subordinate will be held liable, for any shortage that might occur.

- C. Safeguards shall consist of, but not be limited to, turning in funds to the Assistant Finance Director promptly, fixing individual responsibility, and locking of areas where cash is kept. In the event of any shortage, it shall be reported immediately to the Assistant Finance Director and the Finance Director.

## **25.05 Return Check Policy**

Any customer who writes a check that is returned by the bank for any reason (i.e. non-sufficient funds, closed account, stop payment, etc.) that has been accepted as a payment for services rendered or monies due, will be subject to the following:

- A. A \$25.00 returned check fee per each occurrence.
- B. If full payment of the returned check and the return check fee has not been made within ten (10) calendar days of the mailing of a written notice to the customer, the following will occur:
  - 1. Disconnection of utility service
  - 2. Revocation of permit, license, etc.
  - 3. Reinstatement of balance due on taxes, fines, etc.
  - 4. Cancellation of special activity such as league or outing
- C. Payment will be accepted for the returned check and the return check fee only in the form of cash, bank cashier's check or by credit card (MasterCard or Visa)

Written notification to the customer must be mailed the next business day after receipt of the returned check from the Treasury Division. A copy of the returned check should be attached to the letter.

Any customer that writes a second returned check within six (6) months of the first, will be subject to the above as well as:

- 1. No payment in the form of a personal or business check will be accepted for a period of one (1) year subsequent to the date of the latter returned check.



## **CHAPTER 31 - PURCHASING POLICY**

### **31.01 Purpose**

The objectives of centralized purchasing are to provide cost reduction through competitive bidding, control financial commitments, control negotiations with vendors, and provide information and assistance to all departments. The Purchasing Division maintains information resources including purchasing records, price records, vendor records, specification and bid files, and catalogue files. The purpose of this section is to state the City's purchasing procedures.

### **31.02 Purchasing Files**

The Purchasing Office retains copies (either on disk or hard copy) of:

- a) All requisitions
- b) All bid packets received in the Purchasing office
- c) All purchase orders
- d) FTA regulations regarding the purchase of goods and services

### **31.03 Federal Transportation Administration Funded Purchases**

If the requirements of this policy and procedures manual conflicts with the purchasing procedures of the Federal Transportation Administration (FTA), in particular FTA Circular 4220.1F as most recently revised, the procedures and required third party contract clauses outlined in the referenced Circular shall apply.

## CHAPTER 32 - PROCUREMENT CYCLE

### 32.01 Procedure

- A. A purchase requisition is initiated through the City of Middletown's electronic requisition system and approved by the Department Director electronically (Form 4.2.1A).
- B. The requisition is forwarded electronically to the Finance Department for budget approval. If the item requested is a capital outlay or other capital improvement, it should be included in the city's capital plan. Purchases not included in the plan must be justified and approved by the Finance Director.
- C. Specifications are written by Purchasing and the requesting department.
- D. Bids (or quotes) are taken by the Purchasing Office.
- E. If the bids or quotes are in excess of \$25,000 the purchase must be authorized by action of the City Council.
- F. Upon approval, the purchase order (form 4.3.1 (F)) is printed by the Purchasing Office and distributed to the vendor and using department.
- G. If expediting calls are necessary, the first call is the responsibility of the using department.
- H. Additional expediting calls and/or correspondence follow-up are made by the Purchasing Office.
- I. The using department checks for correct delivery (shortages, quality, etc.).
- J. The blue copy of the purchase order is submitted by the using department to the Finance Department on schedule as determined by the Finance Director for payment (invoice attached).
- K. The Finance Department is responsible for payment to the vendor.

## **CHAPTER 33 FORMAL PURCHASING PROCEDURE**

### **33.01 Legal Requirement**

The City Council, under powers contained in the City Charter, has designated the City Manager as the officer for "making" (signing) all contracts.

All purchases must first be authorized by legislation and those in excess of \$25,000 must be formally bid unless the bidding procedure is waived.

### **33.02 Procedure**

The following procedures are to be used for the purchase of any service or commodity:

#### **A) Requisition**

The first step in the purchase of a commodity or service is the preparation of a purchase requisition by the division/department requesting the service or commodity on the city's electronic requisition system.

#### **B) Routing**

The computer will automatically route the purchase requisition from the requesting department/division to the Finance Director (for budget approval), and then on to the Purchasing Agent.

#### **C) Purchasing Responsibilities**

- 1) Reviews the requisition for completeness (description, estimated cost, etc.).
- 2) If the requisition will involve a construction contract, it is sent to the Engineering Department for processing following the same procedures outlined in this manual. Purchasing will issue a purchase order for the final contract amount.
- 3) If the estimated cost shown on the requisition is in excess of \$15,000 and will not involve a construction contract, the Purchasing Agent will prepare Formal Invitations to Bid unless special conditions prevail (See Chapter 35). If the estimated cost is under

\$15,000, the Purchasing Agent will solicit quotes through the Informal Bid process (see Chapter 34).

#### D) Bid Procedure

The bid procedure is initiated and managed by the Purchasing Agent. The steps in the process are:

- 1) Specifications: Specifications are the detailed description of the items or services for which bids are being solicited. They are prepared by the ordering department and the Purchasing Agent. Bid specifications:
  - a) are specific and complete,
  - b) accurately describe the article being purchased and the quality and performance required,
  - c) are not too restrictive,
  - d) highlight special requirements (packaging, marking, delivery date, etc.), and
  - e) contain all legal requirements necessary.
- 2) Solicitation of Bids: After the specifications have been agreed upon by both the ordering department and the Purchasing Agent, Purchasing solicits bids for the materials.

Ohio state law requires that all items bid must be advertised for not less than two weeks or more than four weeks before sealed bids are opened. All advertisements for items bid by the City of Middletown must be advertised at least twice in the newspaper of general circulation for not more than two, nor more than four weeks prior to the date of opening.

To advertise, the Purchasing Agent prepares a legal notice (bid advertisement) after obtaining a legal notice number from the Clerk of the City Council. The Purchasing Agent is responsible for delivery of the notice to the newspaper. The Clerk of the City Council receives the "Certificate of Publication" sent by the newspaper of general circulation after the bid notice has been published at least twice.

- 3) Bid Packets: The Purchasing Agent, in addition to being responsible for advertising all bids, also sends bid packets or notice of same to the vendors on the City's bid list. Bid packets consist of the Legal Notice, the vendor's instruction sheets, delinquent personal property tax form, proposal form(s), specifications (general and technical), relationship affidavit, bid security forms (if required), and Prevailing Wage information (if required).

Bid Security is required for construction contracts and may be required for other types of contracts as deemed necessary by the applicable department head. When so required, all bidders shall submit a bid bond secured by a cashier's check or a certified check by an insurance company licensed to do business in the State of Ohio in the amount of 5% of the bid price. The security will be held to ensure good faith on the part of the bidder and will be applied as liquidated damages if the successful bidder fails to execute all required contract documents within the time required or attempts to withdraw its bid. The bid bonds, other than the bond of the successful bidder, shall be returned to the bidders within a reasonable time after award of the contract by the City Council. The bond of the successful bidder shall be held until all required contract documents are fully executed.

- 4) Submission of Bids: All bids must be sealed, marked and delivered in person or mailed in advance to the Purchasing Office. The bids must be received prior to the time stated for the opening of bids. Bids received after the designated time will be returned unopened and not considered. All bids will be time stamped in the Purchasing office. Fax bids will not be accepted in the formal bid procedure.
- 5) Bid Opening: Formal bids will be opened and read publicly on the designated day and place, at the time specified in the bid notice. The Purchasing Agent or a representative must preside at all bid openings.

The Purchasing Agent will tabulate the bids received and, after discussion with the ordering department, select the successful bid.

- 6) Bid Evaluation: Contracts subject to bidding requirements shall be awarded to the lowest and best bidder. In determining the lowest and best bidder, the City Council may consider, but consideration is not limited to, the following criteria:
- a) The ability, capacity and skill of the bidder to perform the contract or provide the service required.
  - b) Whether the bidder can perform the contract or provide the service promptly or within the time specified.
  - c) The character, integrity, reputation and experience of the bidder.
  - d) The quality of performance of previous contracts or services.
  - e) The financial ability of the bidder to perform the contract.
  - f) The ability of the bidder to provide future maintenance and service for the use of the contract.
  - g) Contract cost.
- 7) Rejection of Bids: The City Council may reject any and all bids or may waive any procedural error in the bidding process if it is in the best interest of the City to do so.

#### E. Recommendation

The Purchasing Agent and a representative from the department review the bids received and jointly determine a final recommendation. The Purchasing Agent then prepares a staff report to the City Manager outlining the bid purpose, budget status, bid analysis, including the bidder's city of residence and/or business, and recommends acceptance of one of the bids. If no bids can be accepted, the Purchasing Agent must notify the City Manager in writing and clearly state the reason.

F. City Council Action

City Council action on contracts shall be in accordance with the following chart:

<u>Type of Contract</u>	<u>Amount</u>	<u>Bid<sup>1</sup> Required</u>	<u>Funds<sup>2</sup> Appropriated</u>	<u>City Council<sup>3</sup> Action</u>
<b>Goods, services, equipment, labor, supplies and/or materials</b>	≤\$25,000	No	Yes	None
	≥\$25,000 ≤\$100,000	Yes <sup>4</sup>	Yes	Consent agenda
	≥\$100,000	Yes <sup>4</sup>	Yes	Motion agenda
<b>SWOP4G ODAS ODOT</b>	≤\$25,000	---	Yes	None
	≥\$25,000 ≤\$100,000	---	Yes	Consent agenda
	≥\$100,000	---	Yes	Motion agenda
<b>Mgt. services or other personal, professional</b>	≤\$50,000	No	Yes	None
	≥\$50,000 ≤\$100,000	No	Yes	Consent agenda
	≥\$100,000	No	Yes	Motion agenda
<b>Change orders</b>	≤ Total contract \$ app. by CC	---	Yes	None
	≥ Total contract \$ app. by CC	---	Yes	Legislative agenda

<sup>1</sup> Any contract which requires formal bidding, which is not formally bid, is required to go before City Council in the form of legislation so the bidding process can be waived.

<sup>2</sup> City Council must appropriate the necessary funds for all city contracts. If the funds have not been appropriated, the matter must go before City Council for an appropriation.

<sup>3</sup> All matters before City Council (consent agenda, motion agenda or legislative agenda) require a staff report. The staff report should include in addition to the standard information to be supplied; a. a bid tabulation (list of bidders and their bids), b. a statement of the reasons for selecting the bidder (if the bidder is not the lowest), or c. a statement of why it is necessary to waive bids (if that is being requested).

<sup>4</sup> If a contract, which is required to be bid, is bid, and the lowest bidder is not recommended, there must be a clear statement of the reasons for selecting a higher bidder in the staff report. If the reason is not obvious, the contract should be placed on the legislative agenda for a waiver of the bid process.

#### G. Contract

Upon Council approval, the City Manager signs the contract if one is specified in the legislation. The signed contract is filed by the Clerk of the City Council. The Purchasing Agent then prepares a purchase order. If a signed contract is not specified by legislation, the purchase order becomes the contract between the vendor and the City.

#### H. Purchase Order Preparation

Purchase orders are prepared electronically by Purchasing using the purchase requisition and the quotations received. The purchase requisition is modified as necessary (price, vendor, etc.) and is then closed, which encumbers the funds in the City's accounting system and electronically places the Purchasing Agent's signature on the final copy.

The purchase orders that have been closed in Purchasing are sent electronically to the Finance Director for final approval. The approval by the Finance Director electronically places the Director's signature on the final copy, and notice is electronically sent back to Purchasing that the purchase orders are ready to be printed.

The purchase order is printed in the Purchasing Office. The buff copy is sent to the vendor, and the blue copy is forwarded to the using department to be used as the receivable copy.

#### I. Receipt of Goods

The goods ordered are received and inspected by the requesting department. The department then signs the blue copy of the purchase order on the line "Complete Order Received By, Date." This indicates the complete order has been received and is ready for payment. The signed blue copy is attached to the invoice and forwarded to the Finance Department (Treasury Division).

## J. Payment

The Treasury Division processes the blue purchase order for payment. Partial payments may be made against a purchase order by noting the date and amount to be paid on the blue copy of the purchase order. The blue copy is then copied, signed and dated. The invoice is attached to the copied copy and both are forwarded to Finance for payment. The blue copy is retained in the using department's files until the final payment is to be made.

## **CHAPTER 34 - INFORMAL PURCHASING PROCEDURE**

All purchases under \$25,000 fall under the informal purchasing procedure. The informal purchasing procedure does not require a legal notice, nor does it require advertisement in a paper of general circulation in the area.

### **34.01 Legal Requirement**

The Ohio Revised Code allows municipalities to purchase materials with a value less than \$25,000 without Council action. However, all purchases must be made from funds appropriated by the City Council. Simply stated: All expenditures must be budgeted.

### **34.02 Procedure**

The purchase of items under \$25,000 is governed by the following procedure:

#### **1) Requisition and Routing**

The steps described for these functions in the formal purchasing procedure shall be followed as outlined in Chapter 33.

#### **2) Purchasing Responsibilities**

The Purchasing Agent reviews the requisition for completeness (description, estimated cost, etc.). If the requested material is not available, the Purchasing Agent notifies the department that the item is not available and suggests a substitute if possible. If the item is available, competitive pricing is obtained through one of the following procedures:

##### **A) Written and E- mailed Quotations**

Price quotes may be solicited through written quotations. The Purchasing Agent is responsible for sending out informal written bid requests to selected vendors. Once the completed bid requests are received from prospective vendors, the Purchasing Agent will prepare a purchase order based on the quotation received.

B) **Telephone Quotations**

Telephone quotations involved contacting at least three vendors for price, terms, delivery, etc. on a given item. The Purchasing Agent then prepares a purchase order based on these telephone quotations.

C) **Fax Quotations**

Fax quotations will be accepted for the informal bidding process when received by the Purchasing Agent within the time frame established by him/her.

- 3) **Purchase Order Preparation, Receipt of Goods, Payment.**  
The steps described for these functions in the formal purchasing procedure shall be followed as outlined in Chapter 33.

## **CHAPTER 35 - EXCEPTIONS TO PURCHASING PROCEDURE REQUIREMENTS**

There are special circumstances when the use of an original purchase order is not required and use of a claim voucher (see Chapter 21) or petty cash (see Chapter 24) is permitted to affect these purchases.

## **CHAPTER 36 - DISPOSAL OF SURPLUS PROPERTY**

### **36.01 Request for Disposal of Surplus Property**

When a Department Director deems city property is no longer needed, is unusable, or too old to meet the municipal needs, he shall direct a report to the Finance Director requesting that the property be disposed of.

### **36.02 Valuation of Surplus Fleet Equipment**

The valuation of used/surplus equipment form (Form 4.7.2) shall be completed and signed by the Chief Automotive Mechanic and accompany the above report. The Finance Director sets a recommended minimum disposal price for property requested for disposal.

### **36.03 Disposal Procedure**

Disposal of surplus and/or obsolete property no longer needed for municipal purposes is the responsibility of the Department Director in cooperation with the City's Purchasing Agent. Personal property with an estimated value of less than \$2,000 may be sold at the direction of the Department Director responsible for the property in accordance with the City of Middletown Codified Ordinances, Chapter 224.11. Property with an estimated value of \$2,000 or more shall be sold at the direction of the City Council in accordance with Ohio Revised Code 721.15 except that property valued between \$2,000 and \$10,000 may be sold at public auction as provided by Chapter 224.11 of the City of Middletown Codified Ordinances. The property may be disposed of in one of the following methods:

### **36.04 Transfer to Other City Departments**

The most desirable method of disposal is to transfer the property to another City Department for use.

### **36.05 Advertise for Sale through Sealed Offer Process**

If no other City Department or Division is able to use the property, it may be advertised for sale through the sealed offer process, which is similar in many respects to the sealed bid purchase process. Bids are advertised and received and opened in the Purchasing Office, with the property offered for sale on an "as is-where is" basis.

**36.06 Auction**

Property no longer needed for municipal purposes may be sold at an auction which has been publicly advertised. Auctioneers should be obtained through the competitive bid process.

**36.07 Sale of Vehicles**

Vehicles and/or rolling stock equipment maintained by the Municipal Garage may be delivered to a licensed auctioneer for sale at a public vehicular or equipment auction in accordance with Ordinance 095-63.

**36.08 Trade-in**

It is sometimes advantageous to trade in old property on new property. This is best accomplished through the bid process, as a part of the total bid package.

**36.09 Sale of Scrap**

Some property may only have scrap value. Property must be separated into homogeneous parts or materials if possible.

## CHAPTER 37 - PROTEST PROCEDURE

### 37.01 Right to Protest

Any actual or prospective bidder or contractor who is aggrieved in connection with the solicitation or award of a bid or contract may protest to the City of Middletown. Protestors must first seek resolution to their complaints with the Purchasing Agent. Protestors may finally seek resolution from the City Manager if the initial step proves to be unsatisfactory to the protestor.

### 37.02 Definitions

*Protest:* A complaint about a governmental action or decision brought by a bidder or vendor to the City of Middletown, with the intention of receiving a remedial result.

*Protestor:* An actual or prospective bidder whose direct economic interest would be affected by the award of a contract by the City to another party, or by the failure of the City to award a contract to such actual or prospective bidder.

### 37.03 Time of Protest

The protest shall be submitted in writing prior to the opening of bids unless the protestor did not know and could not have known of the facts giving rise to such protest prior to bid opening. The written protest shall be submitted within five working days after bid opening in the event the protestor could not have known of the facts giving rise to such protest.

### 37.04 Written Protest

The protest shall be submitted in writing on company letterhead to the City's Purchasing Agent. To expedite handling of protests, the lower left hand side of the envelope containing the protest shall be clearly labeled, "Protest." The written protest shall include as a minimum:

- a. Name, address and telephone number of the protestor;
- b. Signature of protestor or a representative;
- c. Identification of solicitation, bid number, and date of bid opening;

d. Detailed statement of the legal and factual grounds for the protest including copies of relevant documents; and

e. Form of relief being sought.

**37.05 Fee for Protest**

A fee of \$50 shall accompany any request for administrative review by the City Manager to help defray the cost of processing such a review.

**37.06 FTA Funded Purchases**

The following requirements apply to all purchases funded in whole or in part by the Federal Transit Administration (FTA).

For purposes of section 37.06, the term “Recipient” shall mean the City.

It is understood that not every requirement listed will apply to every project for which FTA provides financial assistance. The nature of the project and the section of the statute authorizing financial assistance for the project will determine which requirements apply.

The requirements set forth in the following documents will apply to all FTA assisted third-party contracts and subcontracts: a) FTA Master Agreement (*currently* FTA MA 17 dated October 1, 2010); and b) FTA Circular 4220.1F (*currently* Rev. 3 dated 2/15/2011). Each of these documents, in their current form and as amended at any later date, are incorporated herein as if they were fully rewritten. Hard copies of each are available from the City Transit Manager. Each document can also be found on the following websites:

a. Master Agreement (FTA MA 17) – [www.fta.dot.gov](http://www.fta.dot.gov) or more specifically at: <http://www.fta.dot.gov/documents/17-Master.pdf>

b. FTA Circular 4221.1F – [www.fta.dot.gov](http://www.fta.dot.gov) or more specifically at: [http://www.fta.dot.gov/documents/FTA\\_Circular\\_4220\\_1F\\_Third\\_Party\\_Contracting\\_Guidance\\_2-15-11\\_-\\_Rev\\_.pdf](http://www.fta.dot.gov/documents/FTA_Circular_4220_1F_Third_Party_Contracting_Guidance_2-15-11_-_Rev_.pdf)

c. Any references to the Code of Federal Regulations (CFR) can be found at [www.gpo.gov](http://www.gpo.gov).

## **CHAPTER 38 – CITY OF MIDDLETOWN, OHIO – PURCHASING CARD PROGRAM**

### **Program Overview**

The City of Middletown Purchasing Card is a new procurement and payment tool that encourages efficiency without sacrificing managerial control.

The Purchasing Card Program eliminates claim vouchers as the primary means of purchasing merchandise costing less than \$500, and replaces them with credit cards. Employees approved by administrators in both their department and the Finance Department receive City-registered MasterCard, provided by Fifth Third Bank of Cincinnati, Ohio. These employees are empowered to use their purchasing cards to purchase job-related merchandise on behalf of the City of Middletown.

Each individual card is limited as to where, when, and how it is used. Each card is assigned a unique credit line based on the cardholder's job duties and anticipated purchases. Advanced software allows City administrators to monitor and evaluate card activity.

The purchasing card program's goal is to utilize electronic processing to reduce or eliminate types of paper-based processing, thereby saving City employees' time and effort.

The purchasing card is used like a normal MasterCard. Any merchant that currently accepts MasterCard can accept the City of Middletown Purchasing Card.

Middletown will begin a purchasing card pilot program with the Municipal Garage and with the Building Maintenance Division in September. The plan is to have all departments on the purchasing card program by early 2005.

**City of Middletown, Ohio  
Purchasing Cards Instructions  
City Division Managers**

**Purpose:**

The Middletown purchasing card program is established to encourage the efficiency of each division's purchasing efforts without sacrificing managerial control.

**What is a Purchasing Card?**

A purchasing card is a MasterCard credit card issued to a City employee by name. The card is to be used for City business purposes only. Employees who misuse the purchasing card will be subject to discipline.

**How are cards controlled?**

Cards are issued to only those employees who purchase items on behalf of the City. Division managers select the employees in their divisions who will receive Middletown purchasing cards. The City's Purchasing Card Administrator arranges for all cards. Division managers and the Purchasing Card Administrator also select the limits on each card.

Cards are programmed with the limits established by division managers and the cards will not work outside of the limits. For example, a Municipal Garage employee card limited to automotive parts supply stores will not be able to purchase items at a photography store.

**Division Manager Responsibilities:**

- Select division employee cardholders
- Establish the limits on each card in consultation with the City's Purchasing Card Administrator.
- Approve transactions by signing the monthly claim voucher sent to Finance to pay the charges incurred by division employees using the purchasing cards.
- Work with Finance and Purchasing in the early stages of this program to ensure a smooth transition to this new program.

**Advantages to Division:**

- Eliminates difficulties purchasing items at some local stores (e.g. Sears, Lowe's)
- Eliminates multiple claim vouchers. Division will now prepare one claim voucher payable to Fifth Third Bank covering all of its purchasing card transactions. Back ups to claim vouchers will consist of monthly credit card statements sent to each individual and vendor receipts which match the amounts on the statement. Division will still assign budgetary expense codes on all claim vouchers.

**City of Middletown, Ohio  
Purchasing Cards Instructions  
Cardholder**

38.01 Purpose

38.02 Responsibilities

38.03 Authorized Purchasing Card Usage

38.04 Unauthorized Purchasing card Usage

38.05 Purchasing card Process

38.06 Disputed Transaction

38.07 Lost/Stolen Cards

38.08 Cardholder Termination

**MIDDLETOWN PURCHASING CARD PROCEDURE**

**38.01 Purpose**

The Middletown purchasing card program is being established in order to reduce the effort associated with the acquisition of certain commodities related to City business and to simplify the process.

**38.02 RESPONSIBILITIES**

Cardholder

- Make purchases according to the guidelines established in this policy/procedure as well as the City Purchasing policies and procedures.
- Accountability for all transactions made against the card.

- Provide the original transaction, itemized sales/credit receipt to the division support person responsible for claim vouchers by close of the next business day.
- Safeguard the Middletown purchasing card and keep the account number confidential.
- Use the Middletown purchasing card for City business only.
- Resolving disputed charges with the merchant and/or Fifth Third Bank (also referred to as "Provider").
- No splitting of transactions in order to remain within the established maximum dollar limit per transaction.
- Return merchandise to the merchant when it is incorrect or no longer needed. Provide original credit receipt to the division support person responsible for claim vouchers.
- Report a lost or stolen Purchasing card immediately to the provider, division support person, and the Purchasing Card Administrator.
- Surrender the Purchasing Card upon termination or by request from the City, along with the final reconciliation.

#### Division Support Person

- Reconcile all transactions to invoice receipts.
- Create claim voucher for Division Manager's approval within five business days of calendar month end.

#### Division Manager

- Ensure prompt reconciliation of payments and claim voucher creation to avoid late fees.
- Insure return of card to Purchasing Card Administrator upon termination, extended leave, or by request of Purchasing Card Administrator.

### **38.03 AUTHORIZED PURCHASING CARD USAGE**

1. The purchasing card that the cardholder receives has his/her name embossed on it. The Cardholder is responsible for all use of his/her card.
2. Use of the card shall be limited to the following conditions:

- a. The total value of a transaction shall not exceed a Cardholder's single purchase limit. Splitting of payment for a purchase into multiple transactions to stay within the single purchase limit is unacceptable.
- b. No cash back for returns.
- c. The Cardholder should always identify him/herself with a City-issued identification to ensure negotiated pricing is secured.
- d. The Cardholder should ensure that sales tax is not charged at the point of sale.
- e. Adherence to all boundaries established by this policy/procedure.

#### **38.04 UNAUTHORIZED PURCHASE CARD USAGE**

1. The credit card is not to be used for items such as:
  - Personal purchases.
  - Cash advances.
  - Capital purchases – These are items not consumed as expense in the normal course of City business operations that have a useful life of three (3) or more years. *Example of capital purchases include:*
    - a. *Software purchases over \$1,000.*
    - b. *Initial computer hardware purchases (i.e., CPUs and other technology equipment within a start-up mode).*
    - c. *Office furniture and equipment (i.e., desks, chairs, cabinets, fax equipment, copiers and other electronic equipment such as video camera and inventory scanners).*
  - Computer rentals.
  - Maintenance and service agreements.
2. A cardholder who makes unauthorized purchases or intentionally misuses the credit card will be personally liable for the total dollar amount of such unauthorized purchases, plus any administrative fees charged by the Bank in connection with the misuse. The Cardholder will also be subject to disciplinary action and/or card revocation.

## **38.05 PURCHASING CARD PROCESS**

### **1. Making a Purchase**

1. Determine that the Purchasing Card is the appropriate purchasing tool (versus a purchase order).
2. Call or visit the merchant of choice (as appropriate) based on the limitations of your individual card.
  - a. Select or order the desired merchandise.
  - b. Identify yourself as a Middletown representative to ensure negotiated prices are charged.
  - c. Tell the merchant the sale is considered non-taxable.
  - d. Give the Cardholder's City business address as the shipping address. The receipt will be needed for reconciliation.
  - e. Obtain an itemized receipt (even if the purchase is made by phone or fax). Charge/credit slips that do not itemize are inadequate documentation.
  - f. If delivery instructions are needed, the Cardholder should give his/her City business address. The package should be marked with the Cardholder's name and note that it is a purchasing card transaction.

NOTE: Instruct the merchant that the Purchasing card number is not to be displayed anywhere on the outside of the package so the account number remains confidential.

### **2. Receiving Merchandise**

- a. Packages marked "Purchasing Card" will be delivered unopened to the Cardholder through the existing delivery system.
- b. Upon receipt of a Purchasing Card related package, the Cardholder must verify that the shipment is correct. If not, the Cardholder should notify the merchant directly for

resolution.

- c. Give original itemized sales/credit receipt to division support person responsible for claim vouchers by close of next business day.

### **3. Returning Merchandise**

- a. Contact the merchant for return procedures and to determine if any restocking fee will be charged. Restocking fees will be charged to the division.
- a. Depending on the value of the merchandise being returned, it may be necessary to place additional insurance on the package beyond the carrier's routine insured value.
- b. The Cardholder should pack the merchandise securely (original packing materials are preferable). If adequate packing materials are unavailable, an additional charge may be assessed.
- c. Label the package according to the instructions given by the merchant (i.e., return merchandise authorization number, return address, etc.).
- d. Retain a copy of any documentation sent to the merchant.

### **4. Reconciliation**

The division support person will receive a memo statement directly from the Provider. The division support person must complete a monthly reconciliation of his/her purchase receipts to this statement.

1. Attach supporting itemized sales/credit receipts (originals) to the statement from the bank.
2. Have the responsible division supervisor approve the reconciliation.
3. Have the appropriate division support person verify the account numbers being charged for the purchase.
4. The division clerical support person should then forward the

approved statement and credits/receipts along with the claim voucher payable to Fifth Third Bank by the 5<sup>th</sup> business day of each month to the Treasury Division in Finance. This will allow prompt payment to the Provider. Late fees will be charged to the division.

### **38.06 DISPUTED TRANSACTION**

An incorrect, unrecognized or questioned transaction may be disputed. If a transaction needs to be placed in dispute, the Cardholder should:

1. Complete a Purchasing Card Dispute Form
2. Mail the original Dispute Form to the address noted on the form
3. Attach a copy of the Dispute Form to the monthly statement.
4. Note "Disputed" on the applicable line of the monthly statement.

The provider will conduct an investigation regarding the disputed transaction. While the investigation is ongoing, a temporary reversal of the transaction (charge or credit, as appropriate) will be issued to the Cardholder's account. Upon completion of the investigation, the Cardholder is notified of the resolution. If the dispute is not settled in the Cardholder's favor, the transaction will be re-posted to the Cardholder's account.

### **38.07 LOST/STOLEN CARDS**

If a Purchasing Card is lost or stolen, the Cardholder must contact Fifth Third Bank immediately at (800) 782-0279. Once Fifth Third Bank has been contacted, notify the Purchasing Card Administrator.

### **38.08 CARDHOLDER TERMINATION**

The Purchasing Card is the property of Fifth Third Bank; therefore, at termination it must be surrendered to the Purchasing Card Administrator so it can be forwarded to the Bank. A final, approved reconciliation and supporting receipts should also accompany the card.

## PURCHASING CARD LETTER OF AUTHORIZATION

I understand that the City of Middletown has authorized my use of a City purchasing card for certain City purchases. In accepting and/or using the card, I agree to be bound by the terms and conditions which follow:

1. I will use the card issued to me only for the purchase of items/services for the benefit of my division, and according to the guidelines established by the City of Middletown Purchasing Policies and Procedures, and further defined by the Procurement Card Procedures (and any future updates).
2. I will be the sole user of this card and will safeguard it appropriately.
3. I will **NOT** use this card for personal or non-City purposes.
4. I understand that the card will **NOT** be used for:
  - Purchase of capital equipment (\$500 or more)
  - Personal Purchases
  - Purchases of products or services, which would be considered inappropriate for City use.
  - Cash Advances
  - Maintenance and service agreements
  - Sales Tax on purchases
5. Returning purchases made on the purchasing card must be credited against the purchasing card account. **NO CASH REFUNDS.**
6. I agree to the timely submission of the purchase slip and invoice to the division support person.
7. I understand that any charges against the purchasing card not properly identified or not allowed by the City will be my responsibility. Any violation of the above conditions will result in appropriate action by the City, up to and including termination.

*Accepted (Cardholder):*

*Approved (Department):*

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

*Approved (Finance):*

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **CHAPTER 41 - Applicability**

**41.01** This chapter shall apply to all City employees and all City facilities whenever practicable.

### **41.02 Hours of Business**

Regular working hours for City Building employees are 8:00 a.m. to 5:00 p.m. Employees are expected to be in the building and prepared to begin the work day at 8:00 a.m., or at such other scheduled time as may be established by the Department Director or Division Manager and approved by the City Manager. Employees are not expected to leave work until the regular closing time, or at the end of their regularly scheduled day if it is different from the normal schedule.

### **41.03 Lunch**

Each employee is entitled to one hour for lunch. Department Directors and Division Managers should stagger employee lunch hours in order to keep offices open for business during the noon hour whenever possible. If a department or division is unable to remain open during the noon hour, that department or division may make arrangements with another department for customer service back up personnel to provide routine information or service, take messages or make appointments during this period.

### **41.04 Rest Breaks**

Each employee is normally permitted to take two 15-minute rest breaks per day, one in the morning and one during the afternoon if scheduling allows. These periods are designed to provide a period of rest and relaxation during the regular day's work.

### **41.05 Food**

Employees should refrain from consuming food where they are in the view of the general public. This is particularly important in areas where citizens may regularly be expected.

### **41.06 Radios**

Radios played during working hours should not disrupt the routine of work.

#### **41.07 Telephones**

Personal calls on city telephones should be kept to an absolute minimum and concluded as promptly as practicable. Employees who find it necessary to make long distance personal calls while at work shall be charged for any personal long distance calls. The Finance Department will supply the using department with the call report and the department shall be responsible for reviewing it and collecting the amount charged for the call.

#### **41.08 Copying**

Copying machines throughout the city are for city business. Personal use shall be limited and pre-approved by the employee's supervisor. Employees shall be charged the per copy rate which will be kept on file in the Finance Department (Treasury Division) and remit that amount to the City Treasurer at the time the copies are made.

#### **41.09 Weather Policy**

Emergency closing - Under no conditions will the City of Middletown shut down any of its operations. Certain sections may cease normal operations, however, all employees are expected to make every effort to get to work.

Employees are to listen to the news media with regard to local conditions. Based upon this information and their personal observation, they must make their own decisions regarding the ability to get to their work site.

All personnel are deemed to be "essential" personnel. They may be called upon for extraordinary service should conditions warrant.

Should employees find they are unable to get to work, they should utilize their regular reporting off procedures.

Should employees be at work when there is a weather emergency, they should continue their job functions as normally as possible. The City Manager or his/her designee shall determine or announce any modifications in the work schedule.

Employees shall be paid their regular pay only if they have reported to work. Employees should take into consideration the need for extra travel time depending on weather conditions. They are expected to be at their work stations on time. Employees who are unable to make it to work shall utilize vacation if they desire to be paid for the time off. If they do not desire to use vacation, the time off shall be without pay.

Employees are expected to use good judgment with regard to their specific situation. It is expected, however, that employees will make such arrangements as are necessary to comply with their employment responsibilities.

#### **41.10 Dress Code**

City employees are to present a neat, clean professional appearance, job duties permitting, while at work.

Non-uniformed employees shall wear suitable business attire while at work, unless directed otherwise by their supervisor, as needed for special work assignments.

#### **41.11 Cell Phones**

A. The City shall make available, for the use of employees, cell phones, pagers, radios and other ancillary means of communication where in his/her discretion the director of the department deems the use of such devices is in the interest of conducting City business. The costs of all cell phones, pagers, radios and other ancillary means of communication shall be borne by the department authorizing their use. No employee, supervisors, division leader or department director shall enter into a contract for the use of cell phones, pagers, radios or other ancillary means of communication after December 1, 2003. All such contracts shall be procured through the City's Purchasing Agent. Contracts in derogation of this policy entered prior to December 1, 2003 will be honored to the first date of termination without penalty or other legal liability, at which time they will be terminated.

B. City supplied cell phones are provided to employees to use for City business. Occasional personal use of a City supplied cell phone is permitted, but is discouraged. It is the intent of the City to provide on all City supplied cell phones a second line which can be activated and used by

the employee for personal use at the employee's cost. The availability of this second line would be between a direct contract between the service provider and the employee, and the City would have no liability under that contract. Any personal use by an employee of the business line, paid for and provided by the City, shall be reimbursed to the City by the employee at a rate to be determined by the Finance Director with the concurrence of the City Manager. It shall be the responsibility of the employee using the City supplied line for personal use to obtain billing from the Finance Department, review the same, and submit the appropriate reimbursement to the City.

## CHAPTER 42 – INFORMATION SYSTEMS

Included in this Chapter:

Part A: EMAIL, COMPUTERS, ETC.

Part B: SOCIAL MEDIA

Part C: CELLULAR DEVICES (formerly Chapter 26)

### PART A: EMAIL, COMPUTERS, ETC.

#### 42.01 Purpose

Electronic mail, Internet and telecommunications access are resources made available to city employees to communicate with each other, other governmental entities, companies and individuals for the benefit of the City. The City has established a policy regarding access and disclosure of electronic mail messages created, sent or received by City employees. This policy applies to external (Internet) electronic mail, as well as the City's internal electronic mail system.

#### 42.02 Policy

The City of Middletown provides e-mail to its employees to assist and facilitate business communications. It is provided for legitimate business use in the course of an employee's assigned duties only. Inappropriate use may result in the loss of access privileges and disciplinary action up to and including dismissal.

The City reserves the right to access and disclose all messages created, received, or sent over its electronic mail system for any purpose. The City reserves the right to disclose any e-mail message to City or law enforcement officials without the permission of the employee.

The use of passwords for security does not guarantee privacy or confidentiality. The use of a password or code does not restrict the City's right to access electronic communications. Upon request, all passwords must be disclosed to the City.

All data and other electronic messages within this system are the property of the City. E-mail messages may qualify as public records and may be subject to the Public Records Act, depending on the content. E-mail is not the private property of any employee.

In addition, the City, through its managers and supervisors, reserves the right to review the contents of employee's e-mail communications when necessary for City business purposes. Employees may not intentionally intercept, eavesdrop, record, read, alter or receive other person's e-mail messages without proper authorization.

The City of Middletown, through its Information Systems Division, purchases, owns and administers the necessary software and licenses to provide access to e-mail and Internet services. Employees may not rent, copy or loan the software, or its documentation. The City has invested much time and money to secure its electronic systems from intrusion and harmful malware. Therefore, employees may not provide alternative software to access the system. Employees may be held responsible for any damages caused by unauthorized software or malware they introduce into the system. Department Directors are responsible for the implementation and adherence of this policy within their departments.

#### 42.03 Prohibited Uses

When sending e-mail messages, good judgment should be used. The following are examples of conduct that is prohibited:

- Unauthorized attempts to access another's e-mail messages;
- Transmission of sensitive, confidential, proprietary, copyrighted, or other similar information to unauthorized persons or organizations;
- Transmission of inappropriate, obscene, offensive, harassing, or disruptive messages;
- Any illegal or unethical activity which could adversely affect the City;
- Any non-job related solicitation;
- Any message sent to all users of the City e-mail system that does not have the prior approval of the City Manager's office;
- Communications of sexually explicit images or messages;
- Communications that contain ethnic slurs, racial slurs, or anything that may be construed as harassment or disparagement of others based on race, national origin, sex, age, disability or religious belief; or
- Any other use that may compromise the integrity of the City and/or its business in any way.

#### 42.04 Retention of E-Mail

E-mail shall not be used for document retention or archival purposes. E-mail shall be retained for a period not to exceed thirty days, and shall then be destroyed. Each employee is responsible for the review and purging of his/her own e-mail. If it is necessary to retain e-mail, hard copies should be printed.

No employee shall, without the prior express permission of the Information Systems Manager, download any file or attachment to an e-mail message from the Internet or from any non-City computer system.

Generally, e-mail messages are intended to be temporary communications that are non-vital and may be discarded routinely. However, depending on the content of the e-mail message, it may be considered a more formal record and should be retained pursuant to a department's record retention schedules. As such, these e-mail messages are similar to printed communication and should be written with the same care. Each department head is responsible for establishing and maintaining department retention schedules for the information communicated through the e-mail system.

However, employees should be aware that when they have deleted a message from their workstation mailbox, it might not have been deleted from the central e-mail system. The message may be stored on the computer's back-up system for an indefinite period. Written communications to and from public officials or public employees, including e-mails, are subject to the Ohio Public Records Act, and in most cases must be made available to any person, including the media, upon request. E-mail, which qualifies as a public record, will be released, unless it clearly falls under a specific exemption in the state law.

#### 42.05 Basic Computer Security

##### A. Passwords & Passphrases

Each computer user is responsible for choosing a strong password that is known only to that user. Upon request, all passwords must be disclosed to the City. As a general rule, longer passwords are stronger than shorter passwords. The combination of multiple, unrelated words can form the basis for a strong password, often termed a "passphrase". A passphrase can be more easily

remembered, and is stronger than a shorter, more complex password.

Make sure that the words you use are truly random and not just common phrases, quotes, song lyrics, book titles, etc. Contemporary password cracking tools will not have any trouble with a passphrase of that nature.

A good target to shoot for is a passphrase that contains at least three or four truly unrelated words, and that is at least twelve (12) characters long. Some systems may not allow that many characters in a password, but it is a good starting point.

When you select a passphrase, you can make it even stronger by adding numbers or special characters that will change the words in the passphrase to non-dictionary words. You should incorporate a minimum of one uppercase, one numeric, and one special character.

Passwords must be memorized by the user, and must not be written down or posted in any location that the password would be discovered by an unauthorized person. Passwords must be kept secret; If an employee suspects that his/her password has been become known to someone else, or has in some other way been compromised, the employee must immediately notify the Information Systems Manager.

Passwords will be changed frequently. An employee may change their password as often as they wish. The City's computer system will force a password change on a regular basis.

If an employee is using a mobile phone or device to access City email, Information Systems must be notified immediately if the device is lost, and the employee must change their password.

Users of mobile computing devices will likely be required to use a smart card or other two-factor authentication.

## B. Workstation Security

Employees should log off their computers whenever they leave their workstation, even if the trip is expected to be brief. It is a serious breach of security to walk away from a computer that the employee is logged into. Logging off at the end of the work day is mandatory.

## C. Backups of Workstation Data

All important data files (Word documents, Excel spreadsheets, etc.) must be stored on the virtual drives, H:, I:, K:, so that they can be backed up when the City's servers are backed up. Only temporary and interim files should be stored on the C: drive of the employee's local workstation.

### 42.06 Workstation Software Licenses

Each department is responsible for purchasing a licensed copy of every application software package running on each individual workstation. Software licensing policies must be strictly adhered to. It is illegal and unethical to "bootleg" software, or to make unauthorized copies that are outside the scope of the software manufacturer's licensing policies.

Each department is responsible for reading and enforcing the software licensing requirements for applications running on every workstation within the department. Each department is responsible for maintaining the manufacturer's proof of ownership for every piece of application software residing on individual workstations within the department.

Information Systems will conduct regular audits to check conformance to software licensing policies.

### 42.07 Authorized Workstation Software

Only software that permits an employee to accomplish the duties outlined in the employee's Job Description should be installed on the employee's workstation. No auxiliary software shall be installed on individual workstations without the prior approval of the Information Systems Manager.

#### 42.08 Application Software Usage

- A. No employee shall access or attempt to access applications for which he/she does not have authorized security clearance. Department Managers shall submit a signed, written "Security Clearance" form listing the applications each employee should be allowed to access. Information Systems will review the requested applications, set up appropriate system access, sign-off on the Security Clearance form and maintain a current file of approved Security Clearance forms.
- B. Electronic Bulletin Board System (BBS). All requests for messages to be posted to the City BBS must be submitted to the City Manager's office. Only the City Manager's office and Information Systems shall be permitted to add, modify, and delete messages on the City BBS. Only work-related messages or other appropriate messages will be approved.

#### 42.09 Usage of Central Computer Virtual Drives

Disk space is maintained on the City's central computers so that inter-departmental and intra-departmental document and data file sharing may be accomplished. The following is a list of the virtual drives on the central computers and their intended usage:

Drive	Description	Purpose
G:	City drive	Temporary City-wide file sharing
H:	Departmental drive	Inter-departmental file sharing
I:	Individual drive	Individual user file storage and work area
K:	Agendas drive	Work area for City Council agendas

The G: drive is provided for temporary and interim storage of files. None of the files on the G: drive should be considered confidential or private since every City computer user has access to this drive. Any data file on the G: drive is subject to removal without notice after 60 days.

The H:, I:, and K: drives are provided for more secure, longer-term storage of files, with the provision of the files being backed

up every night. Access to these drives is more restricted, but any confidential or sensitive documents should be protected with a password.

Each City computer user is assigned an I: drive that is only accessible by that individual. An employee's data files and documents should be stored on their I: drive rather than on the C: drive of their workstation. The I: drives are automatically backed up every night. Workstation C: drives DO NOT get backed up.

The J: and O: drives are dedicated to special uses and should only be utilized with the permission and assistance of the Information Systems Division.

Programs should never be installed on a virtual drive or on any City server without the prior approval of the Information Systems Division.

#### 42.10 Internet Usage

Goals and objectives for use of the Internet include the facilitation of communications, information access, and information sharing for City employees. The Internet has the potential to enhance an employee's access to and use of relevant job-related information and knowledge. Effective use of the Internet should result in a more informed, knowledgeable, and productive employee. The City maintains access to the Internet to assist all employees in conducting business. The City encourages furthering employee's knowledge through appropriate use of Internet resources. This policy applies to all employees who have access to the Internet.

As with printed information, not all sources on the Internet provide accurate, complete or current information. Users should evaluate Internet sources just as they would printed publications, and question the validity of the information provided.

##### A. Use

1. Authorized use of the Internet is outlined as follows:

- Use related to non-confidential or non-proprietary City business.

- Use in accordance with City requirements pertaining to records management (retention and disposal), security (classification of information) and copyrights.
- Use according to any associated terms and conditions specified by the supplier of the information to be downloaded.
- Use in accordance with all applicable laws, regulations, policies and procedures. The Internet is an international service. State, national and international laws may be applicable.

2. Unauthorized use of the Internet is outlined as follows:

- Unauthorized sending, receiving or downloading of copyrighted materials, confidential information including trade secrets, proprietary financial information, or similar materials.
- Private commercial ventures, religious or political causes for personal gain or public persuasion.
- Illegal activities or those which would adversely affect the interest of the City.
- Offensive or disruptive materials. Those materials considered offensive include any sexually explicit materials, racial slurs, or materials that offensively address someone's age, sexual orientation, religious or political beliefs, nationality or disability.
- Downloading or executing files that may infect City computer systems with malware.
- Expression of personal views or opinions that could be misinterpreted as those of the organization.

3. Any employee who disregards the City Internet policy, and is found to be in violation, shall be subject to disciplinary action, up to and including termination.

B. Data Protection

Users of the Internet should not assume that they are provided any degree of protection for data transmitted over the network. Users are advised not to submit personal

details or confidential information that could potentially be misused.

C. Ownership

The hardware, software and computer network are considered to be City property. All information sent or received through the Internet is and will remain the property of the City. This information is not the private property of any employee.

The City reserves and intends to exercise the right to review, audit, intercept, access and disclose any information created, received, downloaded or sent through the Internet or City computer network for any purpose. If an employee is suspected of misusing access to the Internet, his or her supervisor will be notified so that further monitoring and/or corrective action may take place.

D. Security

Users of Internet services should be aware of their responsibility to protect City network security. The City's Internet firewall is intended to protect the internal computer network from unauthorized access from the public Internet. The Internet lacks the controls and management normally applied to the City's computer network to protect information privacy. No protection is provided once the user is out on the public Internet.

Encryption is the only means available to ensure privacy of any information on the Internet. Currently the only means of encryption available require individuals to perform the encryption function themselves before sending information to the Internet. Anything not encrypted should be regarded as available for viewing not only by the intended recipient, but also any other unknown person.

Downloading from the Internet should only be done with the assistance of Information Systems, after receiving the permission of the Information Systems Manager. All executable files should be virus checked and initially run in a test environment to ensure the integrity of the information received. Malware is present in webpages, applications, e-mail attachments, word processing documents, spreadsheets and any other file type. The only protections

against downloading malware are restricting downloading and scanning all files before they are used.

Users shall ensure that software acquisition and utilization adheres to applicable software licenses and copyright law. Users shall maintain documentation sufficient to prove that all software installed on any computer workstation assigned to them has been legally obtained and is installed in conformance with applicable license(s).

ONLY SOFTWARE THAT HAS BEEN APPROVED BY THE INFORMATION SYSTEMS MANAGER SHALL RESIDE ON CITY COMPUTERS.

E. Authority

Access to the Internet will be provided by Information Systems only through a written request from an employee's Department Director

Department Directors and Division Managers will have authority to monitor an employee's activities on the Internet.

Information Systems must approve all software/hardware acquisitions to ensure compatibility with City systems. This includes the receipt/or ordering of hardware/software via E-mail or the Internet.

F. Discipline

1. Any employee who disregards the City Internet Policy, and is found to be in violation, shall be subject to disciplinary action, up to and including termination.
2. The City will require employees to read and signify acceptance of the terms of this policy by signing the following agreement before making electronic systems available:

*I have read and agree to the specifics as stated in the attached policy, which also includes the following:*

1. *That my use of the e-mail system is for the furthering of the business of this municipality.*

2. *That I may not intentionally intercept, eavesdrop, record, read, alter or receive another person's e-mail messages without proper authorization.*
3. *That I may not use the e-mail system for solicitation of funds, political messages or harassing messages.*
4. *That my e-mail messages and data are the property of Middletown and may be accessed for review by supervisors.*

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

42.11 Computer Disposal Policy

Disposal of all computer equipment assets will be centrally managed and coordinated by the Information Systems Division. The purpose of this policy is twofold. First, to minimize security risks associated with equipment disposal, by ensuring the secure destruction of discarded data stores. Secondly, computer equipment often contains parts which cannot simply be thrown away. Proper disposal of electronic equipment is both environmentally responsible and is often required by law.

“Computer equipment” refers to desktop, laptop, tablet or netbook computers, printers, copiers, monitors, servers, handheld devices, PDA's, cell phones, disk drives or any storage device, network switches, routers, wireless access points, USB drives, backup tapes or any other backup medium.

When computer equipment assets have reached the end of their useful life, they must be sent to the Information Systems Division for proper disposal. Information Systems will securely erase all storage mediums in accordance with current industry best practices. As an alternative, the hard drives and storage mediums will be removed from each device, and will be rendered unreadable (drilling, crushing, melting down, or other demolition methods).

Computer equipment with non-functioning memory or storage technology will have the memory or storage device removed so that it can be physically destroyed.

Information Systems shall dispose of computer equipment using any authorized method including trade in, reassignment, donation, recycling, refurbishment, sale, or auction. Currently, all surplus computer equipment is auctioned on GovDeals.

Information Systems is not responsible for any loss of data stored on computer equipment. Departments must make copies of any data to be retained before turning the equipment over to Information Systems for disposal. Any City employee found in violation of this policy may be subject to disciplinary action, up to and including termination of employment.

## PART B: SOCIAL MEDIA

### 42.20 Introduction

The prevalence of online social media has made the exchange of information on public or semi-public websites commonplace. To address the new ways that residents communicate and obtain information online, the City has an interest in cultivating and maintaining a positive presence on the Internet in order to reach a broader audience. The City supports the use of social media to further the goals of citizen engagement, where appropriate. Employees are reminded that the use of social media creates public and often permanent records, which may be subject to public records law.

### 42.21 Purpose

The purpose of this policy is to establish written guidelines concerning the use of social media, social networking, and other forms of Internet-based communication, so that the positive image of the City of Middletown may be maintained and protected.

### 42.22 Application

- A. "Social media", as used in this policy, is intended to include any material posted on any website, blog, or other medium accessible via the Internet, including but not limited to Facebook, Twitter, and LinkedIn.
- B. This policy applies to every City employee, whether part-time or full-time, seasonal or otherwise employed by the City. This policy also applies to all contractors or

temporary employees of the City. The term employee, as used in this policy, means all of these people.

## 42.23 Policy

### A. General

1. The City maintains an online presence. An employee may not characterize himself or herself as representing the City, directly or indirectly, in any online posting unless pursuant to a written policy of the City and at the direction of a supervisor.
2. All social media sites directly or indirectly representing the City must be created pursuant to this policy and must be approved by the City Manager or his/her designee.
3. The City's primary and predominant Internet presence shall remain [www.cityofmiddletown.org](http://www.cityofmiddletown.org) and no other website, blog, or social media site shall characterize itself as such. Whenever possible, a social media site shall link to or otherwise refer visitors to the City's primary website. In addition to this policy, all social media sites shall comply with all other applicable City policies, including, but not limited to:
  - a. Public Records Policy;
  - b. Record Retention Policy;
  - c. Internet Use Policy;
  - d. IT Security Policy; or
  - e. Ethics Policy.
4. A social media site is subject to the Ohio Public Records Act and Open Meetings law, and no social media site shall be used to circumvent or otherwise violate any of these laws.
5. Information posted on a social media site will likely be a public record and the City Department posting the information shall maintain an archive of the information and be able to produce it upon request. All official postings on a social media site shall be preserved in accordance with the City's record retention schedules.

6. a. The purpose of social media is to serve as a mechanism for communication between the City and its constituents and all postings are subject to review and deletion by the City. All content posted on a City social media site is owned by the City, and is the exclusive property of the City.
- b. The following kinds of content are not allowed, either by City personnel or by those who post or reply to City social media comments. Such content will be immediately removed and may subject the poster to banishment from all City social media sites.
  - i. Comments not topically related to the particular social media article being commented on.
  - ii. Comments in support of or in opposition to political campaigns or ballot measures.
  - iii. Profane language or content.
  - iv. Content that promotes, fosters, or perpetuates discrimination on the basis of race, creed, color, age, religion, gender, marital status, status with regard to public assistance, national origin, physical or mental disability or sexual orientation.
  - v. Sexual content or links to sexual content.
  - vi. Solicitations of commerce.
  - vii. Conduct or encouragement of illegal activity.
  - viii. Information that may tend to compromise the safety or security of the public or public systems.
  - ix. Content that violates a legal ownership interest of any other party.
- c. If such content is posted by a City employee, they will be subject to the disciplinary procedures outlined in the policies of the City.

B. City social media sites.

1. For each social media tool approved for use by the City, the following documentation will be developed and adopted:
  - a. Operational and use guidelines;
  - b. Standards and processes for managing accounts on social media sites;
  - c. City and departmental branding standards;
  - d. Enterprise-wide design standards; and
  - e. Standards for the administration of social media sites.
  
2. Each City Department that wants to use any form of social media must create a written plan that includes, at a minimum, the following information:
  - a. Which social media channels does the department plan to use?
  - b. What is the intended purpose and how will social media be used?
  - c. What specific topics will be eligible for publishing via social media?
  - d. Will two-way communication be allowed, with responses and requests for assistance coming in from the public?
  - e. Identify the specific City employees who will be authorized to speak on behalf of the City for this project.
  - f. Describe the method that will be used to archive the social media exchanges, so that they can be easily searched, retrieved, and produced for Public Record requests.
  
3. Every new departmental social media plan shall be routed to the following parties for review and approval:
  - a. Information Systems Manager;
  - b. Law Director; and
  - c. City Manager.
  
4. The City Manager's Office and the City's Information Systems Division will monitor content on each of the social media sites to ensure adherence to this policy for appropriate use, message, and branding consistent with the mission and values of the City.

The City Manager's Office retains the right to remove information that is inconsistent with the mission of the City.

C. Departmental policies.

1. Individual City Departments may create their own social media policies, as long as they are not inconsistent with the City's social media policy. Departmental policies should be reviewed by the Information Systems Manager to assure compliance with the City policy.
2. It is the responsibility of each City Department to train its employees on the City's social media policy, and any applicable departmental social media policies.

D. Use of non-City social media sites.

1. An employee may not characterize himself or herself as representing the City, directly or indirectly, in any online posting unless pursuant to a written policy of the City or the direction of a supervisor.
2. The intentional, unsolicited and/or unprompted use of a City email address, job title, official City name, seal or logo, shall be deemed an attempt to represent the City in an official capacity. Other communications leading the viewer to conclude that a posting was made in an official capacity shall also be deemed an attempt to represent the City in an official capacity.
3. When posting in a non-official capacity an employee or official shall take reasonable care not to identify themselves as an official or employee of the City. When the identity of an employee or official posting on a non-City social media site is apparent, the employee or official shall clearly state that he or she is posting in a private capacity.
4. Departments have the option of allowing employees to participate in existing social networking sites as part of their job duties. Department Managers may allow or disallow employee participation in any social media activities in their departments.

5. Any postings on a non-City social media site made in an official capacity may be subject to the Ohio Public Records Act and Open Meetings law, and it shall be the responsibility of the employee posting such material to assure that it is maintained as such.
6. An employee or official posting on a social media site shall take reasonable care not to disclose any confidential information in any posting.
7. Employees may engage in the use of private social media during work hours only as is necessary and at a time and in a manner so as not to interfere with the employee's work. City equipment shall not be used for personal use of social media.
8. An employee may not use their City e-mail address to register for a social media site for personal use.

E. Disclaimer language.

If an employee is posting on a social media site for personal purposes or in a private capacity, and the posting in any way identifies the individual as an employee of the City, the posting must contain the following statement:

"The opinion stated herein is the personal opinion of (name of employee) and not the opinion of the City of Middletown or its officials."

PART C: CELLULAR DEVICES (Previously Chapter 26)

42.40 Type of Cellular Device & Service

The determination of whether it is necessary for a City employee to maintain a cellular telephone or other type of cellular device is solely at the discretion of the department director, subject to review by the City Manager if he or she so chooses. City-provided cellular devices or city-reimbursed personal usage of cellular devices, providing data access, must be approved by the City Manager on Form 42A. Upon such determination and approval, when necessary, the employee may choose to have the cellular telephone or device provided by the City or to use their personal cellular telephone or device.

42.41 Devices Provided by City

Cellular devices (telephones, Smartphones, PDA's, etc.) will be provided to employees by the City upon the request of the employee's department director. The device is to be used for business purposes.

- A. If the employee uses a city-provided cellular telephone for personal use, the employee will be charged twenty cents (\$0.20) for each minute of personal usage within thirty (30) days of the City's receipt of the bill.
- B. If the employee uses city-provided data access devices for personal use, the City may, in its sole discretion, discontinue the employee's ability to receive data access and/or discipline the employee.
- C. It is the responsibility of the department director (the Chiefs in the case of police and fire) to review the monthly billing statements for City-provided devices to determine that this policy is being followed.

42.42 Use of Personal Cellular Telephones or Other Cellular Devices

A. Employees who are required by the City to have a cellular telephone may use their personal cellular telephone for City purposes. Employees who use their personal cellular telephone for City business under this provision are entitled to a reimbursement by the City of twenty-five dollars (\$25.00) per month for each month in which the personal cellular telephone was used for City business, regardless of the amount of usage for City business.

- 1. Any employee wishing to receive said reimbursement must:
  - i. Sign an agreement (Form 42B) to keep the device active so long as it is being used for City business; and
  - ii. Submit an affidavit (Form 42C) by March 15 and September 15 stating the months in which they used their personal cellular telephone for City business and requesting the reimbursement.

2. The reimbursement will be issued two times each year, at the end of March and the end of September. The payment will be at the discretion of the department director, and is subject to budgetary limitations.
- B. Employees who are required to maintain data access on a cellular device may use their personal cellular device for City purposes. Employees who choose to do so on a personal cellular device under this provision are entitled to a reimbursement by the City of thirty dollars (\$30.00) per month. All reimbursements are at the discretion of the department director and subject to budgetary limitations.
1. Any employee wishing to receive such reimbursement must:
    - i. Submit and have approved Form 42A, an approval of cellular data access, by the City Manager;
    - ii. Sign an agreement (Form 42B) to keep the device active so long as it is being used for City business; and
    - iii. Submit an affidavit (Form 42C) by March 15 and September 15 stating the months in which the personal cellular telephone was used for City business and requesting the reimbursement.
  2. The reimbursement will be issued two times each year, at the end of March and the end of September. The payment will be at the discretion of the department director, and is subject to budgetary limitations.

#### 42.43 Duties

- A. The department director (Chiefs for police and fire) shall maintain an accurate list of all telephone numbers for the cellular devices of employees in their department required to maintain a cellular telephone or other cellular device.
- B. If an employee is required by the City to have a cellular device, and the employee elects to use a personal device,

the employee shall be subject to disciplinary action for failure to maintain active service on their personal device.

FORM 42A

City of Middletown  
Approval of Data Access on a Cellular Device

Name \_\_\_\_\_

Department \_\_\_\_\_

Title \_\_\_\_\_

Reason for data access:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Department Director

\_\_\_\_\_  
City Manager

Date \_\_\_\_\_

Date \_\_\_\_\_

Form 42B

City of Middletown  
Cell Phone Reimbursement Signup

Name \_\_\_\_\_

Department \_\_\_\_\_

Replace City Cell phone: Yes                  No

City Cell Number \_\_\_\_\_

Personal Cell Number \_\_\_\_\_

I agree to maintain my personal phone account during the entire time I will be requesting reimbursement. I also agree to notify my department head of any changes in availability or if my personal phone number changes.

Signature \_\_\_\_\_

Effective Date \_\_\_\_\_

Form 42C

City of Middletown  
Cell Phone Reimbursement Affidavit

Name \_\_\_\_\_

Department \_\_\_\_\_

Personal Cell Number \_\_\_\_\_

Number of Months reimbursement \_\_\_\_\_

I hereby certify that I have kept my personal cell phone account active during the period of time I am requesting reimbursement. Access to this number must be maintained throughout the entire period. Any changes to availability must be reported immediately to my department head. Failure to report changes in phone numbers, or requesting reimbursement for ineligible time may result in disciplinary action up to dismissal.

I am requesting reimbursement for the following cellular services:

Voice

Data

Signature \_\_\_\_\_

Date \_\_\_\_\_



## **CHAPTER 43 - RESERVING COUNCIL CHAMBERS OR CONFERENCE ROOMS**

### **43.01 Reservations**

Any employee desiring to use any of the meeting rooms in the City Building on a regular or temporary basis for any employment related purpose should make arrangements for such use as far in advance as possible. The City Building shall not be used by non-public, other not-for profit or for profit organizations without the approval of the City Manager or his designee. When needing to reserve any of the rooms in the City Building, please contact the following:

City Council Chamber -Clerk of City Council  
Police Training Room - Police Administration  
City Building Lobby - Engineering  
Second Floor Conference Rooms 2B & 2C - City Manager's Office  
Third Floor Lounge - Engineering  
Fourth Floor Community Room 4C - Engineering  
Fourth Floor Conference Room 4B –Environmental Services  
Planning Conference Room 4A - Development

### **43.02 Calendar**

Each scheduling office will keep a calendar showing all scheduled meetings for their respective rooms.

### **43.03 Notification**

It will be the responsibility of the person reserving the room to notify the maintenance supervisor to make arrangements for preparing the room and placement of tables and chairs; and if the meeting is after 5:00 p.m., opening and closing of the lobby doors.

### **43.04 Clean-up**

The person reserving the room will be responsible for clean-up after the meeting.

### **43.05 Preference**

Meetings of the City Council will take preference over all others.

## **CHAPTER 44 - PEDDLING AND SOLICITING**

### **44.01 Activity Prohibited**

The peddling of goods or wares such as cosmetics, candy, cards, and stationery, or the soliciting of City employees by insurance agents and salesmen is prohibited. Any violation should be reported to Police Administration.

### **44.02 Exceptions**

With the specific authorization of the City Manager's Office the following may be permitted:

- a. Selling of goods or products by and for the benefit of recognized youth or charitable organizations such as Boy and Girl Scouts, Junior Achievement, and other organizations.
- b. Selling of goods or products by City employees for the benefit of recognized charitable or religious organizations, such as church guilds and clubs engaged in charitable work.
- c. Servicing of employee benefits such as deferred compensation or cancer and disability insurance.

## **CHAPTER 45 - EMPLOYEE PARTIES**

### **45.01 Purpose**

Parties may be held for the purpose of retirement or resignation of employees after three years of service, for the Christmas holiday, and for other special occasions.

### **45.02 Scheduling and Attendance**

Scheduling of parties should be as such to minimize their interference with department operations.

### **45.03 Location**

Parties should ordinarily be held in the Fourth Floor Community Room or the Employee Lounge, in the Police Training Room for the Police Division, and in the Break Rooms for those held outside the City Building.

## **CHAPTER 46 - SMOKING**

### **46.01 Smoking Prohibition**

Consistent with Ordinance #091-78, smoking is prohibited in the City Building except in smoking areas designated by the City Manager.

Smoking is prohibited in all of the City owned buildings and facilities except in areas designated by the official responsible for that building or facility.

## CHAPTER 47 - USE OF OFFICE SPACE BY OUTSIDE AGENCIES

### 47.01 Authority to Lease

Following the approval of the City Council, the City Manager or his/her designee is authorized to enter into a lease agreement on behalf of the City for use of office space in the City Building.

### 47.02 Eligibility Criteria

Office space in the City Building may be leased by governmental or quasi-governmental agencies, or, public or quasi-public organizations that are determined to be performing a public service, i.e., a service that is delivered to all members of the population without qualification.

1. Tax Supported Agencies
  - a. City
  - b. Other
2. Non-Profit Organizations which promote a City function
3. For Profit Organizations sought after by the City for a direct purpose

### 47.03 Rental Rates

Space in the City Building is categorized into either Class A, B, or C depending upon the features available. Each category of leased area will contain most, but not necessarily all of the listed features. Rental rates will be based on current market rates.

1. Utilities are furnished by the city.
2. Tenants of City property are required to maintain an insurance policy approved by the City.
3. No changes in structure or color scheme will be made without written consent of the City.

#### Class A

Location of floors 1-4  
Large to medium offices  
Private restrooms  
Private entrances  
Designated parking  
Excellent window space  
Remodeled space to specified needs

### Class B

Location on floor 1-4  
Medium to small offices  
Public entrance  
Public restrooms  
Public parking  
Adequate window space  
As-is room configuration

### Class C

Lower level offices  
Public entrance  
Public parking  
Limited or no window access  
As-is room configuration

Rents will be at current market rates. Adjustments to the market may be considered based on the following criteria:

1. Formal written request of the proposed tenant
2. Number of square feet rented
3. Benefit of agency to City departments or community
4. Term of lease
5. Degree of maintenance required by the City
6. The other financial benefits to the City
7. The degree of modification required for the space
8. The ability of the agency to pay
9. The availability of space

Local, public or quasi-public organizations that are performing a public service may be granted office space at no charge. Such arrangements shall be reviewed annually.

## **CHAPTER 48 – Weather Conditions (PPM Section 41.09 relocated to Chap. 48)**

### **48.01 Operations**

- A. Unless otherwise determined and announced by the City Manager, the City will not shut down any of its operations because of inclement weather. All employees are expected to use their best effort to report to work.
- B. Employees are encouraged to listen to news media regarding weather conditions. Individual employees must make their own decisions regarding their ability to safely get to their work site.
- C. If employees determine they are unable to safely get to work, they should utilize their applicable policy to report off work. If an employee is unable to get to work, they shall be deemed in an unpaid status unless they chose to use permissible paid leave (e.g. vacation or personal day). In extreme weather emergencies, the City Manager may modify these requirements.

### **48.02 Emergencies During Work Hours**

- A. Should employees be at work when there is a weather emergency, they should continue their work as normally as possible, except as otherwise instructed or provided in this section. Operations shall continue as normal unless determined otherwise by the City Manager.
- B. The following procedures apply if the tornado sirens are sounded:
  - (i) All buildings where employees are regularly assigned during work hours shall have a designated safe place. The safe place for the City Building shall be the City Council Chambers. In all other buildings, the safe place shall be designated by the director of the department whose employees occupy the building or their designee. If you need assistance establishing a safe place, please contact the Division of Fire.
  - (ii) If the tornado sirens for the City sound (except for regular testing at noon on the first Wednesday of every month), all employees should go immediately to the designated safe place.

- (iii) Upon the instruction of the Chief of Police or the Acting Chief of Police, all department directors or their designees, including those in the City Building, shall instruct their employees to go to the safe place even if no tornado siren is sounded.
- (iv) All employees shall remain in the designated safe place until they are released to return to their work areas by the City Manager, Chief of Police, their department director or designee. The determination that it is safe to return to work stations will be made by the Chief of Police.
- (v) Any employee working outside of a city-owned building should seek shelter or a place of safety upon hearing a tornado siren.

## **CHAPTER 51 - MEDIA POLICY**

### **51.01 Purpose**

To establish a policy for dealing with the media and identify which staff members are authorized to respond to media inquiries.

### **51.02 General Policy**

It shall be the policy of the City of Middletown to be proactive in its approach to sharing information with the public and in using media as one method of accomplishing this goal. A full and reasonable attempt shall be made to respond promptly and accurately to all media inquiries. Only staff members specifically authorized by the City Manager may speak for the City or give information to the media on behalf of the City.

### **51.03 Designated Spokespersons**

- 1) City Manager. The City Manager shall act as the Chief Spokesperson for the City.
- 2) Information Officer. The City Manager shall formally designate an Information Officer. This individual will provide training to other spokespersons, act as an information clearinghouse and be, when so assigned by the City Manager, the primary media contact to coordinate all City media information.
- 3) Departmental Spokespersons. The City Manager shall formally designate departmental spokespersons. These individuals shall be empowered to speak on behalf of their Department in matters relating to their areas of departmental expertise, when so authorized by the Information Officer.
- 4) Police Division. In addition to the above procedures, it is recognized that the police department receives ongoing media requests regarding routine daily activities.

In responding to daily media beat checks for police activities, the following procedures for media contact shall be followed:

Media request for information regarding policy should be referred to the Shift Commander on duty. A media request for information regarding a field incident should be referred to the ranking officer in the field.

When there is a fast-breaking story involving major police activity, the first media contact is with the Information Officer appointed by the City Manager. If conditions make it impossible for that person to speak on behalf of the department, then the Watch Commander, Deputy Chief, or Chief may speak on behalf of the Department.

- 5) Fire Division. In addition to the above procedures, it is also recognized that the Fire Division receives ongoing media requests regarding routine daily activities.

In responding to daily media beat checks for fire activities, the following procedures for media contact should be followed:

Media request for information regarding policy should be referred to the designated departmental spokesperson within the Fire Division. On the fire ground, movements of the media may be restricted for safety reasons by the ranking officer on the scene. A media request for information should be referred to the ranking officer in the field.

When there is a fast-breaking story involving major fire information, the first media contact is with the Information Officer appointed by the City Manager. If conditions make it impossible for that person to speak on behalf of the department, then the ranking officer in the field shall assume that responsibility.

#### **51.04 News Releases**

All Departments are encouraged to generate news releases pertaining to events and activities within their scope of responsibilities. News releases shall be cleared through the Information Officer and issued from the City Manager's office.

#### **51.05 News Conferences**

It may be appropriate, on occasion, to call a news conference to announce a major City decision or to respond to an issue of

general interest to the public. News Conferences must be approved by the City Manager. The Information Officer will organize the conference and make all necessary arrangements.

**51.06 City Council**

Nothing in this policy shall be construed to limit or control comments made by City Councilors to the media.

## **CHAPTER 52 – RELEASE OF PUBLIC RECORDS TO MEDIA POLICY**

### **52.01 Purpose**

The media is no more or no less privileged than the general public in being provided access to city records during normal working hours. While city operations need not be disrupted or extraordinary accommodations made to provide the media access to public records, it should be emphasized that accurate information provided to the media is beneficial both to citizens and the city in carrying out its public information efforts. The release of any public records shall be in accordance with Chapter 60 (Public Records) of the Policy and Procedure Manual.

## **CHAPTER 53 - MEDIA NOTICE AND COVERAGE OF CITY COUNCIL ACTIONS**

### **53.01 Purpose**

To establish a policy for disseminating information about City Council actions.

### **53.02 General Policy**

It is the policy of the City of Middletown to provide accurate and timely information relating to Council actions and decisions, including routine Council meetings.

### **53.03 Provisions**

- 1) **Publication of Agenda.** The agendas for all Council meetings shall be published at least 24 hours in advance of the meeting and distributed to all media representatives that request it. See Chapter 2 City Council Meeting and Agenda Procedure.
- 2) **Supplemental Information.** Staff reports, budget information, etc. shall be made available to media representatives 24 hours prior to the scheduled City Council meeting.
- 3) **Sunshine Law.** The City shall comply with all provisions of the Sunshine Law, including the provision of 24-hour written notice to those media contacts who have requested notification regarding special Council meetings.

Exemptions from the 24-hour notice requirement include Council meetings called to address emergency situations which require immediate official action in which case notice shall be provided as early as practicable.

When written meeting notification is required, it is the responsibility of the City Clerk to coordinate the distribution of the notice to the appropriate media. A copy should be forwarded to the Information Officer.

- 4) Audiotape Coverage of Meetings. Audiotape recording of council meetings is allowed provided it does not disrupt the proceedings, as determined by the Mayor.
- 5) Videotape Coverage of Meetings. Videotape recordings of meetings are allowed provided it does not disrupt the proceedings in progress as determined by the Mayor. Anyone wishing to videotape a council meeting must notify the City Manager prior to the meeting.

When using a videotape, recording shall take place only from the center open section behind the second row of seating in the City Council Chambers. The camera operator will not be allowed to move about the Council Chambers while the meeting is in session or stand between the Council and the audience. Supplemental lights are not permitted. Press conferences are exempt from these provisions.

Due to the size of Middletown's Council Chamber, it may be necessary for the Mayor to limit the number of cameras allowed in the Council Chambers at one time. Cameras requiring additional lights and equipment, such as those used by professional news reporters, may be limited to one or two "pool" cameras. A "pool" camera is one camera crew designated to go into the Chambers, record, and then share the raw footage with those who request it.

## **CHAPTER 54 - CORRECTING INFORMATION RELEASED BY THE MEDIA**

### **54.01 Purpose**

To correct inaccurate media reports of City business.

### **54.02 General Policy**

The City has the responsibility to clarify or correct any information released by the media which contains inaccuracies regarding a City-related issue.

In meeting this responsibility, the City recognizes that the role of the media is to provide information to the public - a goal which may result in the release of media stories not always reflecting favorably on city policies or operations.

### **54.03 Provisions**

- 1) **Factual Discrepancies.** It is the responsibility of the Department Directors to contact the media when a story has been published or aired containing a factual error which significantly impacts the public's perception of the issue being discussed. Depending on the nature of the error, the request for correction could be made by written letter or an informal phone call.

Department Directors should immediately notify the City Manager if they believe incorrect information is being communicated by the press regarding a city program or issue.

The Community Information Officer, as designated by the City Manager, will be available to assist in formulating approach to media corrections.

- 2) **Editorial Discrepancies.** Department Directors or Division Managers should contact the City Manager when a specific editorial comment or news story has been published or aired that does not adequately represent a balanced perspective of the issue being discussed.

The City Manager and/or Council will determine if an official city rebuttal or response is appropriate.

- 3) Letters to the Editor. When appropriately presented, letters to the editors of newspapers and electronic media can be effective tools in clarifying a misconception of city policy or programs or correcting inaccurate information that has been widely reported by the press.

Those Department Directors who believe, as a public official, that a city rebuttal is warranted, will discuss their concerns with the City Manager. The City Manager will determine if a response is appropriate as well as who should prepare and sign the letter. The City Manager must authorize and review all letters sent to the editor.

- 4) Responding to Media Stories as Private Citizens. The following guidelines should be followed for those employees who choose to contact, initiate or respond to city-related news stories as private citizens.

Letters may not be prepared on city time, distributed on city stationery, or mailed at city expense.

Telephone contact may not be made on city time using city telephones.

Use of city facilities or supplies is prohibited.

Responses or letters shall not include the employee's official title or be presented as a response on behalf of the city.

Statements made to the press shall not disrupt public meetings or interfere with the City Manager or his/her designee in carrying out the day-to-day management responsibilities of the city.

- 4) Employee Groups. The above guidelines also pertain to employees responding or initiating press contact as official representatives of city-sanctioned employee groups.

## **CHAPTER 55 - PROFESSIONAL PUBLICATIONS POLICY**

### **55.01 Purpose**

The City encourages articles written on innovative City programs in professional publications.

### **55.02 General Policy and Professional Publications**

The city encourages all employees to contribute articles to professional publications and journals, both as a means of enhancing personal development and highlighting city achievements.

### **55.03 Provisions**

- 1) Professional Articles. Department Directors and Division Managers are encouraged to submit articles promoting City services/programs to the appropriate professional journals.

Copies of all articles should be forwarded to the City Manager, Department Director, and Community Information Officer for review and comment prior to submittal for publication. The name of the publication and the tentative publication date should also be noted.

- 2) Assistance by the Community Information Officer. The Community Information Officer is available to review and edit articles scheduled for publication in professional journals when request is made within a reasonable time frame.

- 2) Published Articles. It is the responsibility of the Department Director to forward a copy of the published article to the Community Information Officer.

## **CHAPTER 60 – PUBLIC RECORDS**

### **60.01 Policy**

The City of Middletown acknowledges that it maintains many records that are used in the administration and operation of the City of Middletown. The records maintained by the City of Middletown and the ability to access them ensure accountability of government to those being governed, expose government activity to public scrutiny, and allow the public to monitor the conduct of the government.

The City of Middletown maintains its records in a manner which allows the general public prompt inspection of the City of Middletown's public records and copies of these records within a reasonable amount of time during regular business hours from 8:00 a.m. to 5:00 p.m. Monday through Friday with the exception of published holidays.

In accordance with state law, the City of Middletown Records Commission has adopted Schedules of Records Retention and Disposition (RC-2) that identify these records. These schedules identify records that are stored on a fixed medium (paper, computer, film, etc.) that are created, received, or sent under jurisdiction of the City of Middletown and document the organization, functions, policies, decisions, procedures, operations, and other activities of the City of Middletown.

The City of Middletown public records policy and the Schedule of Records Retention and Disposition (RC-2) are available in the Office of the Clerk of City Council, One Donham Plaza Middletown, Ohio 45042. Public records are kept in various City departments. Requests for records may be made to a specific department (e.g. Police, Fire) at One Donham Plaza, Middletown, Ohio 45042. All other requests should be addressed to the Law Department, One Donham Plaza, Middletown, Ohio 45042.

If additional custodians of City records are certified by the City Law Department, a listing of those custodians and appropriate contact information will be available from the City Law Director. If a request is made directly to any other City of Middletown Office without such a certified records custodian, members of the staff are expected to promptly contact the Law Department to begin the process of responding to the records request. Requests may be made in person, by telephone, in writing, or by mail.

In order to assure compliance all offices of the City shall coordinate with the Law Department when handling records requests.

#### **60.02 Records, Defined**

The City of Middletown in accordance with the Ohio Revised Code, defines records as including the following: Any document – paper, electronic (including, but not limited to, e-mail), or other format – that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of the City are public unless they are specifically exempt from disclosure under Federal and/or Ohio law.

#### **60.03 Maintaining Public Records and Ease of Inspection**

It is the policy of the City of Middletown that, as required by Ohio law, public records will be organized and maintained so that they are readily available for inspection and copying. Record retention schedules are to be updated regularly and posted prominently.

Each request for public records should be evaluated for a response using the guidelines set forth in sections 60.01 through 60.10.

#### **60.04 Procedures for Making and Responding to Requests**

##### **(a) Identifiable Records**

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should assist the requester in revising the request by informing the requester of the manner in which the office keeps its records.

##### **(b) Requests**

Requests for public records may be written or oral. The City cannot require the requester to:

1. reduce the request to writing;
2. identify themselves; or

3. state the purpose of seeking the records or the intended use of the records.

The City may request the information, but may do so only after:

1. disclosing to the requester that a written request is not mandatory and that they may decline to reveal their identity or the intended use; and
2. informing the requester that the information would benefit the requester by enhancing the ability of the City to identify, locate or deliver the public records sought.

### **(c) Response to Written Request**

If the request is made in writing, the City must respond to the request in writing.

When a requester declines to provide his or her name when requesting information that may not be released or available immediately, a City records custodian may provide the requester with a unique identification number to reference in identifying a request once the information has been prepared for release.

### **(d) Forms**

1. Upon the receipt of a request for public records, the employee receiving the request shall complete or cause to be completed a "Public Records Form" (Form No. 60-A). *Reminder: The requester cannot be required to complete the form; but can complete the form if the steps set forth in Section 60.04 (b) have been followed.* The purpose of this form is to document the request for public records, processing and response to the request. A copy of completed Form No. 60-A shall be provided to the requester with the public records. The City shall retain the original form.
2. If any information is redacted from public records, the form, entitled "Redaction: Legal Authority" (Form No. 60-B) shall be completed, showing the legal basis for the redaction. The redacted document shall reflect the numeric designation of the legal basis of the redaction as shown on the form.

### **(e) Choice of Duplicating Medium**

Any individual who wants to obtain or inspect a copy of a public record may request to have the record duplicated on paper, on

the same medium on which the record is kept or on any other medium that the City Manager/designee determines reasonable.

**(f) Overly Broad Requests**

If the request is ambiguous or overly broad, the City may deny the request, but must inform the requester of the manner in which records are maintained and accessed in the ordinary course of business and allows the requester to revise the request. City staff will assist the requester with the revision of a request to facilitate access to records maintained by the City.

**(g) Inspection and Availability of Records**

Public records are to be available for inspection during regular business hours, with the exception of holidays and other times in which the City's offices are closed to the public. However, not all records are available for inspection immediately upon demand. Public records must be made available for inspection promptly provided they have been properly reviewed and redacted (that is obscured or deleted) in compliance with state and federal law. Records will be made available for inspection within a reasonable period of time following the request. The amount of time in which the records will be available for inspection will depend upon the number of records requested, the location of the records, the medium upon which the records are stored, the location of the records, the need for legal review, and the need to redact non-public information.

The City may require a City employee be present during the inspection of records, but shall not deny the inspection if no employee is available.

**(h) Requests for Duplicate Records**

The City of Middletown will provide copies of records at cost and in a reasonable amount of time. Upon request all records responsive to the request shall be copied by a City employee and made available within a reasonable period of time. The amount of time in which the records will be duplicated will depend upon the number of records requested, the location of the records, the medium upon which the records are stored, the need for legal review, and the need to redact non-public information. However, not all records are available for copying upon demand. Records must often be reviewed and non-public information redacted before the records can be copied.

### **(i) Cost of reproducing records**

An estimated cost of copies shall be provided to the requester prior to the copying of the requested records. Those seeking public records will be charged only the actual cost of making copies. All copies will be made by City employees or their approved designees. Requesters cannot be charged for the time used by City employees for gathering, reviewing or physically copying records. Charges for oversized copies, color copies or other mediums such as, disks, CD-Roms and/or videos shall be the cost of such medium. The cost of duplicating certain public records may be established in accordance with others law, regulations or policies not within the control of the City of Middletown. The City may require that such charges be paid prior to providing copies to the requester.

There is no charge for documents e-mailed to requesters. The cost for duplication of public records is set forth in Exhibit "A" to this Chapter.

If due to the number of records requested it is necessary to use an outside vendor to comply with the request the requester shall be notified of the cost prior to the copying.

### **(j) Personnel Files**

All requests for the personnel files of City officials or employees shall be referred to the personnel division and the personnel division shall coordinate such requests with the Law Department.

Records relating to individual employees including, but not limited to personnel files, shall not be released except in conformity with state and federal law. In order to assure compliance with applicable law, these records should be reviewed by the Law Department before they are released.

### **(k) Possible Legal Review**

Any requests to inspect and/or obtain a copy of a record maintained by the City of Middletown may contain information, the release of which is prohibited or exempted by either state or federal law and, therefore, requests shall be forwarded to the Law Department for review. The person submitting the request shall be advised that their request is being reviewed by the Law Department to ensure that protected and/or exempted information is not improperly released by the City of Middletown

## **(l) Explanation of Denial and Redaction**

Any denial, including redactions, of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

In such cases the City shall make the requester aware of any information that is exempt from disclosure requirements by notifying the requester of any redacted information or by making redactions in a plainly visible manner and noting the legal authority for such redaction. If a public records request is denied, the City shall provide an explanation with legal authority for the denial of the request. This explanation is provided in writing if the request is made in writing or if the Law Director determines a written explanation is necessary.

## **(m) Information Delivery; Limitations**

The City shall transmit the requested records by mail or by any other means of delivery requested, if the method is reasonably available. The City may charge or require advance payment for the cost of postage, or other means of delivery, for the costs incurred for supplies used in the mailing, delivery or transmission of the record. The number of mail requests sent to any one person is limited to 10 a month unless the person certified, in writing, that neither the records nor the information will be used for commercial purposes.

### **60.05 E-Mail**

Documents in electronic mail format are public records as defined by the Ohio Revised Code when their content relates to the business of the office. E-mail is to be treated in the same fashion as records in other formats and should follow the applicable retention schedules.

### **60.06 Private Email Accounts Used for Public Business**

Records in private e-mail accounts used to conduct public business are subject to disclosure, and all City employees and officials are instructed to retain their e-mails that relate to public business and to copy them to their business e-mail accounts and/or to their respective records custodian. The records custodian is to treat the e-mails from private accounts as records of the public office, filing them in the appropriate way, retaining them per established schedules and making them

available for inspection and copying in accordance with the Public Records Act.

**60.07 Failure to Comply**

The City, its officials and employees recognize the legal and non-legal consequences of failure to properly respond to a public records request and that failure to comply may result in a court ordering the City to comply with the law and to pay the requester attorney's fees and damages.

**60.08 Posting of Records Policy**

Every office of the City shall post a poster describing the City's public record's policy in a conspicuous location.

**60.09 Training**

All elected officials, or their designees and records custodians shall be periodically trained as required by law on this Records Policy and shall sign and acknowledge that they have received a copy of such policy if applicable.

**60.10 Questions**

Questions on the application of this policy should be addressed to the City's Law Department.

## Exhibit "A"

### FEES FOR PUBLIC RECORDS

Black & White and Color copies:

- up to 10 pages No charge
- 11 pages or more \$0.05 / page

CD's \$0.25 each

DVD's \$1.00 each

Price per page for oversized documents (such as maps, blueprints, plans), photos, video or audio cassettes or other items Price to be determined based on cost of copying

All fees are subject to change without prior notice.

**CITY OF MIDDLETOWN, OHIO  
PUBLIC RECORDS REQUEST FORM**

**IF YOU ARE REQUESTING PUBLIC RECORDS:**

1. A written request for public records is not required. You may decline to complete this form.
2. You may choose not to give the City your name; in such case, your request may be assigned a unique identification number to assist the City in responding to your request.
3. You are not required to reveal the intended use of the requested information.
4. Providing your request in writing may benefit you by enhancing the ability of the City to identify, locate or deliver the public records requested.

**A. REQUEST INFORMATION\*** Today's date: \_\_\_\_\_

Name of Requester or Unique Identification Number	
Street Address	City, State, Zip
Phone Number	E-mail address
With as much specificity as possible, please describe what records you want to review. PLEASE PRINT.	
The City of Middletown may charge the requester the actual charges of duplicating public records. Advance payment may be requested. Mailing charges are assessed at actual cost. There is no charge to inspect records while in a City of Middletown facility. <b><i>Please check your preference below:</i></b> <input type="checkbox"/> I would like to inspect these records when they are ready. <input type="checkbox"/> I would like these records copied and I will pick them up when they are ready. <input type="checkbox"/> I would like these records copied and mailed to me at the address on this form. <input type="checkbox"/> I would like these records copied and e-mailed to me at the address on this form.	

*\* If the requester declines to complete the form, the employee receiving the request should complete the form with the information the requester is willing to provide.*

**B. PROCESSING THE REQUEST**

Name of employee handling request: \_\_\_\_\_

Contact departments for documents to be produced:

<u>Department</u>	<u>Date of Request</u>
_____	_____
_____	_____
_____	_____

Documents forwarded to legal counsel for research/review:

Date forwarded: \_\_\_\_\_

Date requester notified: \_\_\_\_\_

Release approved by: \_\_\_\_\_

Date approved: \_\_\_\_\_

**C. RESPONSE TO REQUEST**

Documents provided for inspection

Documents attached

REDACTIONS MADE – SEE ATTACHED EXPLANATIONS

Number of copies (up to 10) \_\_\_\_\_: No charge

Number of copies (11 or more) \_\_\_\_\_ @ \$0.05 per page: \$ \_\_\_\_\_

Number of CD's \_\_\_\_\_ @ \$0.25 each: \$ \_\_\_\_\_

Number of DVD's \_\_\_\_\_ @ \$1.00 each: \$ \_\_\_\_\_

Other materials: Number of copies \_\_\_\_\_ @ \$ \_\_\_\_\_ each: \$ \_\_\_\_\_

Delivery costs: \$ \_\_\_\_\_

Total cost: \$ \_\_\_\_\_

No records exist

Documents not subject to release

Explanation: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Signature of City of Middletown  
employee handling request

\_\_\_\_\_  
Date request was completed

**CITY OF MIDDLETOWN, OHIO**  
**REDACTION EXPLANATIONS / LEGAL AUTHORITY**

1.  Medical records generated in the course of treatment. Ohio Rev. Code § 149.43(A)(1)(a).
2.  Home addresses of City employees. *State ex. rel. Dispatch Printing Co. v. Johnson*, 106 Ohio St. 3d 160 (2005).
3.  Social Security numbers. 5 U.S.C. § 552a; Ohio Rev. Code § 149.43(A)(1)(v); *State ex rel. Beacon Journal Publishing Co. v. Akron*, 70 Ohio St. 3d 605 (1994).
4.  Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information. Ohio Rev. Code § 149.43(A)(1)(p).
5.  Trial preparation records. Ohio Rev. Code § 149.43(A)(1)(g).
6.  Confidential law enforcement investigatory records. Ohio Rev. Code § 149.43(A)(1)(h).
7.  Security and infrastructure records. Ohio Rev. Code § 149.433.
8.  Intellectual property records. Ohio Rev. Code § 149.43(A)(1)(m).
9.  DNA records stored in the state DNA database. Ohio Rev. Code § 149.43(A)(1)(j).
10.  Information pertaining to the recreational activities of a person under the age of eighteen. Ohio Rev. Code § 149.43(A)(1)(r).
11.  Criminal background and other law enforcement information from the LEADS database. 42 U.S.C. § 3789g; Ohio Rev. Code § 149.43(A)(1)(v); *State ex rel. Master v. Cleveland*, 76 Ohio St. 3d 340 (1996).
12.  Records that do not document the organization, functions, policies, decisions, procedures, operations, or other activities of the City. *State ex rel. Wilson-Simmons v. Lake Cty. Sheriff's Dept.*, 82 Ohio St. 3d 37 (1998).
13.  Attorney-client privileged information. *State ex rel. Taxpayers Coalition v. City of Lakewood*, 86 Ohio St. 3d 385 (1999); *State ex rel. Nix v. Cleveland*, 83 Ohio St. 3d 379 (1998); *State ex rel. Alley v. Couchois*, 1995 Ohio App. LEXIS 4094 (2d Dist. Sept. 20, 1995).
14.  Information related to and maintained in accordance with the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and the Health Information Portability and Accountability Act (HIPAA). 29 CFR 825.500(g); 29 CFR 1630.14(c)(1); Ohio Rev. Code § 149.43(A)(1)(v).
15.  Records made by a public accountant in the course of an audit of the City (except reports submitted by the accountant to the City). Ohio Rev. Code § 149.43(A)(1)(v); Ohio Rev. Code § 4701.19(B).
16.  Federal tax returns. Ohio Rev. Code § 149.43(A)(1)(v).
17.  Records sealed pursuant to court order. Ohio Rev. Code § 149.43(A)(1)(v); Ohio Rev. Code § 2953.52.
18.  Other records the release of which is prohibited by state or federal law. Ohio Rev. Code § 149.43(A)(1)(v).
19.  Other. Explanation and authority: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **CHAPTER 61 - INTERACTION WITH THE PUBLIC**

### **61.01 Purpose**

One of the major factors which influence citizen attitudes toward City government is that of contact with City employees. If a citizen has a favorable and pleasant contact, he/she will have a positive attitude towards City government in general. Customer service and customer satisfaction are the jobs of every employee.

### **61.02 Personal Contacts**

The public will receive the following consideration in their business with the City:

- 1) The employee, with whom the public deals with, will show interest and give attention with a sense of concern about the citizen's problem or complaint.
- 2) The public will have their questions answered clearly and in language they can understand. City employees should refrain from the use of complicated technical jargon or slang.
- 3) The public will receive accurate, thorough information. (An employee may not like to admit he doesn't know, but this is preferable to giving wrong or incomplete information.) Do not "pass the buck" and send a citizen to another office unless necessary.
- 4) Employees will be neatly and appropriately dressed. This applies to inspectors and other "outside" personnel as well as clerical and office employees.
- 5) The public will be treated with respect and in a courteous manner.

### **61.03 Telephone Contact**

Effective telephone contact is as important as personal contact. An employee's voice often reflects his/her own personality and his/her attitude toward the caller which this reflects the "City" to the person on the other end of the line. The following should be practiced in talking on the telephone:

- 1) Always be sure that someone is available to answer the phone.

- 2) Answer promptly.
- 3) Identify the office and yourself - "Finance Department, Miss Brown."
- 4) Speak directly into the mouthpiece in a quiet, well-modulated voice.
- 5) Do not carry on a conversation with someone else after answering.
- 6) Keep paper and pencil handy to take notes.
- 7) Be courteous to the caller, even if he/she is not.
- 8) Speak naturally and pleasantly, as if face-to-face with the caller.
- 9) Keep calls as brief as possible, but do not be abrupt.
- 10) When you must leave the phone to look up information, explain your absence to the caller.
- 11) When taking a call for another person, ask the caller if you can help him/her or take a message for him/her.
- 12) When transferring a call, remember that no one likes to repeat his/her story several times. Make certain you connect the caller with the individual who can help him/her or give him/her the information he/she desires.
- 13) When finished with the conversation, hang up the receiver gently. Never slam the receiver into the cradle.

## **CHAPTER 62 - CITIZEN COMPLAINTS**

### **62.01 Purpose**

To ensure that all citizen complaints are handled in a responsive manner. To facilitate communication and coordination between departments when the complaint requires the attention of more than one department; and, to ensure that prompt citizen follow-up occurs in problematic situations that may require a long-term resolution.

### **62.02 Procedure and Routing**

A complaint is defined as a communication from a citizen or a city employee which expresses dissatisfaction with either a city service, the City's response to a call for service, or the lack of the ability of the City to provide a requested service.

All complaints shall be logged into the City's electronic Complaint Tracking System. If the complaint is not within the purview of the department receiving the call, the employee taking the call shall log the complaint and then route it to the appropriate department using the electronic mail notification within the Complaint Tracking system. If the complaint requires the action of the receiving department, in addition to other departments, it shall be routed to all affected departments. The department receiving the complaint shall take the lead in coordinating the response among the various departments, unless otherwise agreed by the affected departments.

### **62.03 Completion of Request/Resolution of Complaint and Follow-Up**

Once the complaint is resolved, the information should be entered into the Complaint Tracking System, along with a brief narrative describing the action taken and the system will generate written notification to the citizen. In cases of a complex nature, personal employee follow-up with the citizen may be required.

#### **62.04 City Manager's Review**

All complaints will be reviewed by the City Manager or his/her designee, if they have not been resolved within 10 working days of the date received.

## **CHAPTER 63 - CLAIMS AGAINST THE CITY**

### **63.01 Purpose**

The purpose of this policy is to set forth the procedure which will be followed in the event a claim for damages is made against the City.

### **63.02 Admission of Liability and Claims Procedure**

If an employee is told in writing (or verbally) that a party is claiming damages against the City, the employee, under no circumstances, shall admit or otherwise imply liability or indicate the City will pay the claimed damages.

The employee should provide an explanation of the procedure for filing claims against the City and a copy of form 7.3.4 "Claim for Damages" for the claimant's use.

### **63.03 Written Claims**

Claims which are received in writing shall be immediately forwarded to the Finance Director or his designee with all available background information, and the party submitting the written claim will be advised by the department receiving the claim that the claimant's letter has been so referred.

### **63.04 Oral Claims**

In the event a claim is received orally, the employee receiving the claim should obtain all the pertinent facts (listed below in 63.05) and forward them in writing on Form 7.3.4 to the Finance Director or his/her designee with all available background information.

### **63.05 Required Information**

Background information on all claims submitted should include the following:

- 1) Date and time damage occurred
- 2) Location of damage
- 3) Description of incident
- 4) Description of damage
- 5) Three (3) estimates of repair

- 6) Statement of investigation of incident by police or reason for no police investigation

#### **63.06 Routing**

Upon receipt of this information by the Finance Director or his designee, the claim will be referred to the Department Director having jurisdiction over the property which is alleged to have been the cause of the damage or injury. The Department Director will immediately notify the Law Department and order a full investigation of the incident. The Department Director submits a written report to the Law Director, who will rule on the responsibility of the City and make a report to the City Manager. The City Manager will determine the final disposition and return the file to the designated official in the Department of Finance, who will notify the claimant of the decision regarding the claim.

#### **63.07 Payment**

The Finance Director will pay only those claims which have been approved for payment by the City Manager and only after the procedures prescribed herein have been followed.

## **CHAPTER 64 - SPECIAL EVENTS RESPONSIBILITIES**

### **64.01 Policy Statement**

The City of Middletown encourages special events for the enjoyment and benefit of its citizens. It is incumbent upon the City to provide services in the most efficient manner possible. The following policy is being implemented in order for the Police Division and the Maintenance Services Department to coordinate their efforts in the most cost effective and efficient manner.

### **64.02 Police Division Responsibilities**

A. The Police Division, generally, is responsible for the overall planning and conduct of special events, including, but not limited to:

1. Crowd control
2. Traffic patterns and flow
3. Parking
4. Safety of the participants and the public

B. Special Event Commander

The Patrol Division Commander has the overall responsibility for the direction of special events. In most cases, he or she shall delegate the planning and command of these events. That officer shall be referred to as the "Special Event Commander".

1. The Special Event Commander will plan and schedule for the event in the most efficient and cost effective manner while maintaining the goal of providing for the most successful event possible.
2. The Special Event Commander may utilize other city services as deemed necessary to obtain the goals of this policy.
3. When assistance, such as traffic control devices and/or vehicles, is needed from the Maintenance Services Department, the Special Event Commander shall contact the Maintenance Services Department in a timely manner with the request. Large events may require the use of

Maintenance Services personnel, but only when their use would constitute the most cost effective manner of handling the event.

- a. In most cases the set up and take down of temporary traffic control devices, such as barricades or cones, will be done by the Police Division.
  - b. Delivery and pick up of these items will be done by Maintenance Services, usually during their business hours unless the quantity of items makes the delivery and pick up necessary at the time of the event.
4. Any conflict between the Special Event Commander and Maintenance Services will be referred to the Patrol Division Commander for resolution.

#### **64.03 Maintenance Services Responsibilities**

- A. Generally, the Maintenance Services Department will provide that service as requested for a special event. This may include:
1. Assembly of traffic barricades and/or cones.
  2. Delivery of the barricades and/or cones.
  3. Preparation, set up, and take down of temporary traffic signs, such as "no turn" or "road closed" signs.
  4. Providing vehicles for police use.
  5. Providing personnel when needed for large events.
- B. Procedures shall follow the guidelines outlined in
- C. Any conflicts between the Special Events Commander and Maintenance Services should be referred to the Patrol Division Commander for resolution.

#### **64.04 Special Events and the Public; Permits Required**

While the City desires the most enjoyable and safe special events possible, nothing within this policy should be construed as to imply an improper relationship between the

city, the police department or its agents and the participants, guests or public during a special event.

- A. Any person wishing to host, sponsor, or otherwise conduct a parade, rally, public gathering, block party, or other event which will make use of the roadway, close roads, or impede traffic must first obtain and complete a Parade Permit from the Records Section of the Police Division.
- B. Any person planning to host, sponsor, or otherwise conduct an event where food will be prepared for sale to the public must obtain a permit from the Health Department.
- C. Any person planning to host, sponsor, or otherwise conduct an event in a City park must first obtain permission from the Recreation Division.
- D. Any person wishing to host, sponsor, or otherwise conduct an event which will require the services of the Maintenance Services Department must obtain permission from that department prior to the event.

## **CHAPTER 65 - ZONE CHANGE PROCEDURES**

### **65.01 Application**

In conformance with section 1177.02 of the Codified Ordinances of the City of Middletown, applications for zone changes shall be submitted to the office of the Planning Director and include the following information:

- A. A completed zone change application form including the name and address of the person(s) requesting the zone change, and existing zoning and requested zoning classifications;
- B. Five (5) Copies of the surveyed tract to be rezoned;
- C. A legal description of the tract to be rezoned;
- D. Names and addresses of all property owners located within the same block and within 200 feet of the boundaries of said property.

### **65.02 Processing**

- A. Applications will not be accepted by the Planning Director until the processing fee has been received and until the requested change has been reviewed by a staff member. Checks should be made payable to the City of Middletown. The processing fee will be transmitted to the Finance Director on a Cash & Receipts report.
- B. Upon acceptance of the application, the Planning Director shall forward a copy to the Clerk of the City Council for filing.

### **65.03 Public Hearings**

Prior to submitting its recommendations and report to the City Council, the Planning Commission shall hold a public hearing on the proposed change. The City Council shall also hold a public hearing before adoption of an ordinance authorizing any proposed change.

#### **65.04 Time of Processing**

Depending on the time of submission, approval of a zone change will take a minimum of 90 days to 120 days by law.

## **CHAPTER 66 - STREET NAME CHANGE PROCEDURES**

### **66.01 Purpose**

The purpose of the regulation is to establish a procedure for responding to requests for street name changes and to assist the public processing such requests.

### **66.02 Procedure**

- A. Any resident of the City of Middletown may file a request (petition) for a street name change with Clerk of the City Council. There is no requirement that the petitioner reside on the street, nor is there a minimum number or percentage of signatures required on the petition. The request must include the following:
  1. The name and address of the person(s) requesting the change,
  2. The existing street name and proposed street name, and
  3. A filing fee as established in the Codified Ordinances of the City.
- B. The Clerk of the City Council routes the request to the Engineering Division who will seek comments from other city departments (police, fire, maintenance services), outside agencies (schools, utility companies, etc.) and from property owners along the subject street.
- C. The request and all comments are sent to the City Planning Commission who considers the request and prepares a recommendation for City Council action.
- D. Before taking final action on the request, the City Council may hold a public hearing if a majority of the Commission deems it necessary.
- E. The City Council determines the final disposition of the petition. If the request is approved, the City Council will then adopt an ordinance authorizing the street name change.
- F. The Engineering Division shall be responsible for the implementation of the street name change.

## **CHAPTER 67 - REPORTING AND REPAIRING DAMAGE TO STREET LIGHTS**

### **67.01 Purpose**

Light standards in the city owned lighting systems are repaired at cost to the city. When it is possible to determine who is responsible for the damage, the individual is billed for the cost incurred by the city. Light standards in the city, which are company owned (Cinergy) are maintained by the utility company and prompt notification of damage should be provided to the company for their action.

### **67.02 Reporting**

- A. When the Police Division or another city agency becomes aware of any damage to city-owned light standards or fixtures, the damage shall be reported to the Engineering Department.
- B. When the Police Division or another city agency becomes aware of damage to company owned light standards or fixtures, the damage shall be reported to the Engineering Department for referral to Cinergy.

### **67.03 Repair or Replacement**

- A. The city shall take the necessary steps to repair the light in a prompt cost efficient manner, consistent with public safety.
- B. It is the responsibility of Cinergy to maintain lighting systems that they own within the city.

### **67.04 Payment of Cost**

- A. When the expenses associated with the repair or replacement of city owned street lights are submitted, the Finance Department will bill the responsible party for the actual cost to the city. When the damage is a result of an accident, the statement of materials will be compared with the accident report of damage to ensure that billing is correct.

## **CHAPTER 68 - PARK PROPERTY BUILDING STANDARDS**

### **68.01 Administrative Guidelines**

- A. Project requests will be accepted by the City of Middletown from any outside party or parties interested in improving an existing park structure or installing a new structure. Examples of structures are defined as buildings, shelters, playground equipment, athletic fields, historic monuments, playing courts, landscaping, fence, and other park amenities.
- B. All requests and plans for new construction or renovation of existing park structures are to be submitted in detail to the Recreation Division for city staff review. City staff review will include representatives from Parks and Recreation Department, Maintenance Services, Police, Planning, Health Department, and other departments or divisions as deemed necessary. City staff will have the authority to alter plans to conform with guidelines, make suggestions to improve the overall design or reject the request. Once this process is complete, city staff will review revisions with the submitting agency for final input. The plan will then be submitted by staff for review by the Middletown Park Board at the next regularly scheduled meeting.
- C. Once reviewed by the Park Board, the plan will either be revised as necessary and resubmitted, or if approved, forwarded to the City Manager's office for review.

### **68.02 Construction Considerations**

- A. The agency proposing construction will be responsible for funding the project - the City of Middletown may assist where possible without affecting the Financial Plan.
- B. The agency sponsoring the request will be responsible for obtaining all necessary building permits and adhering to building rules and regulations. All safety and building codes established by local, state, or federal agencies must be met.

- C. A bond must be obtained in advance by the agency in the amount determined by the Parks and Recreation Department and filed with the City.
- D. New construction or renovations shall be designed to be as vandal resistant and maintenance free as possible.
- E. New construction or renovations shall blend in with the overall theme and design of existing structures and surroundings as designated by the city.
- F. New construction or renovations shall comply with ADA guidelines.
- G. Submitting agency is to obtain protective coverage in the form of an insurance policy, worker's compensation, and signed waivers from any volunteers during the construction phase. Insurance is to be a minimum of one million dollars general public liability coverage. The City of Middletown is to be named as a co-insured on these policies.

### **68.03 Completion Guidelines**

- A. All construction plans will show the project completed in entirety.
- B. Construction shall be completed in entirety as designated by the design. All landscaping will be complete and all grounds will be cleared of debris and materials upon completion.
- C. Completion date for the project will be determined before final project approval. Delays in project due to inclement weather will justify extension of time for completion.
- D. If project is not completed within established time frame, the City has the authority to determine if the project will be completed in-house, hire a contractor at the expense of submitting agency, determine if a construction extension will be granted, or terminate permit and demolish.

**68.04 Ownership/Responsibilities**

- A. All permanent buildings or structures installed on park property become the property of the City of Middletown. All materials installed within the buildings also become the property of the City of Middletown.
- B. Any utility charges resulting after construction is complete become the responsibility of submitting agency proposing construction.
- C. Maintenance and capital improvement costs become the responsibility of the City of Middletown.

## **CHAPTER 71 - EMPLOYEE SAFETY**

### **71.01 Employee Safety Policy**

It is the policy of the City of Middletown that each and every employee is entitled to work under the safest possible conditions; therefore, every reasonable effort will be made in the interest of accident prevention, fire prevention and health preservation. The City of Middletown will endeavor to maintain a safe and healthful work place. It is our belief that accidents which injure people, damage equipment and destroy property cause needless personal suffering, inconvenience and expense. We believe that practically all accidents can be prevented by taking common sense precautions.

The responsibility for safety in each department remains with the Department Director. The employee is responsible to satisfactorily perform assigned duties in accordance with accepted safety practices under any and all circumstances, report any unsafe conditions and practices, observe safety rules, make safety suggestions and ask for assistance or further explanation when needed. Each supervisor is to ensure that work is done in a safe manner, inspections are conducted on a regular basis, hazards are reported and accident investigations are conducted for each accident.

In this overall effort to keep employees on the job and the public protected, we can fulfill our obligations to serve the public. We are confident that this program will be successful and expect your cooperation and support.

### **71.02 Responsibility for Safety**

It is the responsibility of every department to assure safe working conditions, tools, equipment, training and work methods for its employees. Unsafe conditions should be corrected promptly. All safety rules, including the use of safety protective equipment and safe working methods, should be observed. Ultimate responsibility for safety within the department shall, as in other matters, remain with the Department Director.

### **71.03 Responsibility of the Employee**

It is the duty and responsibility of all employees to use the safety equipment provided, and any additional equipment required for employment, and to follow all safety rules and safe working methods. A violation of any safety rule is to be considered the same as a violation of any other rule or regulation and shall be subject to appropriate disciplinary action. In addition, it is the responsibility of each employee to report any condition or act which may be considered unsafe to the immediate supervisor.

#### **71.04 Central Safety Committee**

The Personnel Division, shall serve in the position of Safety Officer and will be responsible for the operation of the City Safety Program. The Personnel Division shall designate a Safety Committee Chairman who shall chair the Central Safety Committee. A Central Safety Committee will function as an advisory body to develop and recommend to the City Manager matters of policy and procedure affecting administration of the City Safety Program. Membership shall consist of representatives of each department, with an equal number from labor and management. Its primary purpose shall be to promote the safety and health of City employees. The committee shall meet monthly during regularly scheduled work hours. Its function shall include, but not be limited to, the following:

Oversee the elimination of unsafe working conditions and practices through periodic inspections and at departmental request.

Establish a safety training program for all employees pertinent to their job function.

To oversee safety policy.

Review safety reports to determine the effectiveness of the overall safety program and develop recommendations for improvement.

Propose amendments to the City's safety program and policy as they become necessary.

## **71.05 Departmental Safety Committee**

Departmental safety committees may be created to promote and assure safety awareness and to assist in seeing that program policies are followed within the respective departments.

## **CHAPTER 72 - MOTOR VEHICLE POLICIES & PROCEDURES**

### **72.01 Fleet Control**

The Director of Maintenance Services shall be responsible for recommending to the City Manager the assignment of vehicles to the various departments. He shall make recommendations as to the type and quantity of vehicles needed. He will also recommend when a vehicle will be removed from service and its disposition.

### **72.02 Fleet Maintenance**

The Director of Maintenance Services shall be responsible for the proper maintenance of all vehicles. Any abuse of vehicles or failure of proper maintenance shall be reported to the Director of Maintenance Services.

### **72.03 Outside Maintenance**

No work shall be performed on any equipment by any department or agency without the approval of the Director of Maintenance Services.

### **72.04 Maintenance Records**

The Director of Maintenance Services will formulate a record system to determine the cost of operating each vehicle owned by the City and shall establish a procedure for the proper allotting of costs incurred by the Municipal Garage among the user agencies.

## **CHAPTER 73 - OVERNIGHT ASSIGNMENT OF VEHICLES**

### **73.01 Assignment of Vehicles**

City vehicles may be assigned to personnel after normal operating hours. This assignment shall be based upon the need for an immediate response or if there is certain equipment contained in the vehicle which is necessary to perform work on an emergency basis.

The personnel assigned such vehicles should be those who are expected to respond directly to alleviate a problem within the community and would be substantially delayed in performing the necessary work by reporting to a central dispatch area.

All permanent assignments shall only be made by the City Manager in writing. An approved list shall be kept on file in Director of Maintenance Services office.

### **73.02 Special Assignments**

Special conditions for a one-day overnight vehicle assignment may be approved by the Department Director. Overnight assignments for longer periods may be approved by the Director of Maintenance Services.

### **73.03 Take Home Vehicles**

The City Manager may authorize certain employees due to their position or assignment to drive a City vehicle to and from their residence. These employees shall not use such vehicle for personal uses. However, local (within the City limits) use of such vehicle for necessary personal use during or immediately adjacent to business hours, e.g. doctor's appointments, childcare, etc. is permitted. City owned vehicles are to be used for official City business involving their duties as assigned under the direction of the City Manager.

## **CHAPTER 74 – OPERATING CITY VEHICLES ON OFFICIAL BUSINESS**

### **74.01 Vehicle Operation**

City vehicles are intended to be used for City business. Vehicles may be operated by any employee as directed and permitted by Department Directors. For purposes of this chapter only, the term “employee” refers to any full-time, part-time, or seasonal employee of the City and personnel contracted to the City. Operators of City vehicles are subject to traffic laws just as are other operators. Drivers are responsible for paying penalties when cited for parking or other traffic violations. Emergency vehicles are an exception.

### **74.02 Parking**

Vehicles on City business are to park only in authorized areas.

### **74.03 Pool Cars**

Pool cars are made available to reduce the number of departmental staff cars. Therefore, it is important that their usage be shared and that they be available.

- A) All pool car requests for out-of-town usage must be accompanied by the approved Request for Leave of Absence for business related travel form (Form 3.3.3A). Any employee may call in advance to schedule the car, but must provide an approved Request for Leave form (Form 3.3.3A) in order to pick the car up.
- B) Pool cars may be used for out-of-town business trips within a 300 mile radius.
- C) Any employee using a pool car should note all individuals who will be in the car on the Request for Leave form (Form 3.3.3A). No family members will be allowed to travel in a pool car without a prior written request from the employee and approval from the Department Director. Only employees are permitted to drive a pool car due to the City’s insurance coverage. Should an employee plan an extended stay after a business-related meeting, he/she must

provide his/her own vehicle. Mileage reimbursement will be provided for the trip to the business-related function and home again. Any mileage incurred while on the extended stay will not be reimbursed.

- D) Pool cars should not be kept in excess of three days. Pool car assignment may be made for more than three (3) days and/or more than 300 miles under special conditions with prior approval of the City Manager or their designee.
- E) No pool car should be returned with less than 1/4 tank of gas. Any employee using the car should be sure to refill the tank at the Municipal Garage. Their business hours are from 8:00 a.m. to 11:00 p.m. Monday through Friday.
- F) Pool cars will not be assigned to be driven to the airport. If an employee needs transportation to an airport, another employee may use a pool car to provide such transportation. Otherwise, a personal car must be used.
- G) Pool cars will be assigned on a day-to-day basis for business use only.
- H) There shall be no smoking in pool cars.

## **CHAPTER 75 - DRIVERS LICENSE; SEAT BELTS**

### **75.01 General Policy**

All personnel who drive City equipment or operate a private vehicle on City business shall hold a valid and current operator's or Commercial Driver's License (CDL), as required by law. Verification with the State shall be made prior to hiring new employees. Periodic checks may be made to ensure employees have valid licenses. Employees must report to their supervisor any changes in the validity status of their drivers licenses such as suspension, revocation, or expiration. Failure to report such changes may result in immediate discipline.

Employees engaged in official City business, whether in a City or private vehicle, are required to wear seat belts and have all occupants also wear seat belts, to the extent required by law.

The employment of an employee whose driving privileges are revoked or suspended by the proper licensing authority may be terminated if the employee is regularly required to drive a City vehicle as part of his work assignment.

## **CHAPTER 76 - COMMERCIAL DRIVERS LICENSE (CDL) POLICY**

### **76.01 MTS CDL Policy (Transit)**

As of February 15, 1995, all bus operators must possess a Commercial Drivers License (CDL) with endorsements in their appropriate categories.

- A. All new employees (drivers) must possess a valid CDL prior to employment. This CDL must be for the categories appropriate for passenger vehicles with air brakes designed to carry 16 or more passengers.
  
- B. An employee must notify the employer immediately upon suspension of his/her CDL. Failure to do so will result in disciplinary action up to and including termination from employment.
  - 1. An employee (driver), whose CDL is under suspension from the state or any court will be permitted to continue working so long as the employee provides satisfactory evidence that driving privileges for commercial vehicles as described above have been granted during the period of the suspension.
  
  - 2. An employee (driver), whose CDL is under suspension from the state or any court and cannot provide satisfactory evidence that driving privileges for commercial vehicles as described above have been granted during the period of the suspension, may be terminated from employment; except, if the suspension is one hundred and twenty (120) calendar days or less, the employee may be placed on leave without pay until the CDL is reinstated or the evidence required above is provided.
  
  - 3. An employee (driver) who accumulates three (3) CDL suspensions in any four (4) year period, shall be terminated, and the applicability of the general rules set forth in paragraph one and two of this policy shall not serve as a defense.

### **76.02 CDL Policy**

As of February 15, 1995, all employees in the following classifications must possess a Commercial Drivers License (CDL) with endorsements in their appropriate categories.

Chief Auto Mechanic  
Public Service Leader  
Auto Mechanic  
Building and Parks Maintainer  
Motor Equipment Operator III  
Motor Equipment Operator II  
Motor Equipment Operator I  
Auto Mechanic Trainee  
Laborer II  
Laborer I

- A. All new employees must possess a CDL by the end of their six month probationary period. Failure to obtain a CDL by the end of the probationary period will be grounds for dismissal. A six month extension of the probationary period may be granted if the employee shows a good faith effort to obtain a CDL.
  1. The employer will provide probationary employees with CDL study materials and assist in training. The employer will also provide the equipment, time, and driver for the actual testing procedure. After the new employee obtains a CDL, he/she will be reimbursed for the first actual license.
  
- B. An employee must notify the employer immediately upon suspension of their CDL. Failure to do so will result in disciplinary action up to and including termination for employment.
  1. An employee (driver), whose CDL is under suspension from the state or any court, will be permitted to continue working so long as the employee provides satisfactory evidence that driving privileges for commercial vehicles as described above have been granted during the period of the suspension.
  2. An employee (driver), whose CDL is under suspension from the state or any court, and cannot provide satisfactory evidence that driving privileges for commercial vehicles as described above have

been granted during the period of the suspension, may be terminated from employment. However, further consideration on a case-by-case basis may be granted as follows:

- a) If the suspension is for one (1) year or less without driving privileges, the employee shall be temporarily demoted from the employee's present classification to Laborer II classification, Range 5, at the employee's same pay step and placed on probation. Upon reinstatement of the employee's CDL and successful performance evaluation the employee shall be reinstated to the previous classification, pay range and step.
  - b) If the suspension is for greater than one (1) year without driving privileges, the employee shall be demoted from the employee's present classification to Laborer II classification, Range 5, at the employee's same pay step. Upon reinstatement of the CDL, the employee shall not be returned to the previous classification, except through the promotion process as defined in the bargaining agreement.
3. An employee (driver) who accumulates three (3) CDL suspensions in any four (4) year period or who loses their CDL permanently shall be terminated, and applicability of the general rules set forth in Section B of this policy shall not serve as a defense.

## **CHAPTER 77 - CDL DRUG & ALCOHOL POLICY**

### **77.01 Policy**

The City of Middletown recognizes its commitment to employees, customers, and the public to take reasonable steps to assure safety in the workplace and in the community. The use and/or abuse of alcohol or controlled substance by drivers of commercial vehicle presents a serious threat to the safety and health of the driver and the general public. The City is concerned about the adverse effect alcohol and controlled substance abuse may have on safe and productive job performance. Employees who are affected in their ability to perform their jobs safely and productively, due to the use or abuse of alcohol and controlled substances jeopardize the integrity of the workplace and the achievement of the City's mission.

The United States Department of Transportation (USDOT), the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) have issued federal regulations (49 C.F.R., Parts 40, 382, and 655) implementing provisions of the Omnibus Transportation Employee Testing Act of 1991, which requires alcohol and controlled substance testing of drivers who are required to have a commercial drivers license (CDL). These regulations include detailed procedures for testing of employees in safety-sensitive positions.

It is the policy of the City of Middletown that its employees should be free of drugs and alcohol. In order to obtain such an environment, the City has implemented this drug and alcohol testing program which is designed to help reduce and avoid traffic accidents, causing injuries to our employees and the public; to discourage substance abuse; and, to reduce absenteeism, health care costs and other drug and alcohol-related problems. This program is in addition to the provisions of the Drug-Free Workplace policy (Chapter 114), Discipline Policy and Procedures (Chapter 115), and the Commercial Drivers License (CDL) Policy (Chapter 76).

### **77.02 Definitions**

For purposes of administering this policy, the following definitions shall be used.

- A. **ALCOHOL** - Alcohol means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.
- B. **ALCOHOL CONCENTRATION (or content)** - Alcohol concentration (or content) means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. When the indicated alcohol concentration on an initial alcohol test is different from an indicated alcohol concentration on a confirmatory test, the employee shall be considered to have the lower indicated concentration.
- C. **ALCOHOL TEST** - An alcohol test is a test conducted by a Breath Alcohol Technician, or any other person approved by the Department of Transportation rules, using an Evidential Breath Testing Device to measure the amount of alcohol concentration in a volume of breath, or any other test used to detect the presence of alcohol that is approved by the Federal Highway Administration.
- D. **ALCOHOL USE** - Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.
- E. **BREATH ALCOHOL TECHNICIAN (BAT)** - A Breath Alcohol Technician is a trained individual who instructs and assists individuals in the alcohol testing process and who operates the evidential breath-testing device.
- F. **COMMERCIAL MOTOR VEHICLE** - A commercial motor vehicle means a motor vehicle or a combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle -
1. Has a gross combination weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
  2. Has a gross combination weight rating of 26,001 or more pounds; or
  3. Is designed to transport 16 or more passengers, including the driver; or
  4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and

which requires the motor vehicle to be placarded under the Hazardous Materials Regulations.

5. Has a tank capable of holding 1,000 gallons or more of liquid or gasses.

G. **CONFIRMATION TEST** -

1. For alcohol testing, a confirmation test means a second test following a screening test with a result of 0.02 or greater that provides a quantitative data of alcohol concentration. Confirmation of the screening test must be by an Evidential Breath Testing (EBT) device listed on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List (CPL), and must be capable of printing out each test result and air blank, and must sequentially number each test.
2. For controlled substances testing, a confirmation test means a second analytical procedure to identify the presence of a specific drug or drug metabolite which is independent of the screen test and which uses a different technique and chemical principle from that of the screen test in order to ensure reliability and accuracy. (Gas Chromatography/Mass Spectrometry (GC/MS) is presently the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.)

H. **CONTROLLED SUBSTANCE** - Controlled substances include cocaine, marijuana, opiates, amphetamines, and phencyclidine and any other substance determined by the Department of Transportation to be a controlled substance.

I. **CONTROLLED SUBSTANCE TEST** - A method for determining the presence of controlled substances in a urine sample using a scientifically reliable method performed in accordance with procedures specified in 49 CFR 40.

J. **DRIVER** - Any person required by job classification/description to possess and maintain a Commercial Drivers License (CDL). Also any person who is subject to operating a Commercial Motor Vehicle at the direction of or with the consent of the City. This includes but is not limited to: 1) Full time regularly employed drivers 2) Temporary drivers, 3) Any person making application to

drive for the city, or 4) Any person performing a “Safety Sensitive” function as per the definition (see Def. W).

- K. **EVIDENTIAL BREATH TESTING DEVICE (EBT)** - An evidential breath-testing device is a device approved by the National Highway traffic Safety Administration (NHTSA) and placed on the NHTSA’s Conforming Products List and is used for the evidential testing of breath.
- L. **FOLLOW-UP TEST** - A follow-up test is an alcohol and/or controlled substances test administered to a driver who has violated the prohibitions of this policy and who has been permitted to return to duty after passing a return-to-duty alcohol and/or controlled substances test.
- M. **MEDICAL REVIEW OFFICER (MRO)** - A Medical Review Officer is a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the City’s drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual’s confirmed positive test result together with his or her medical history and any other relevant biomedical information.
- N. **ON-DUTY TIME** - All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident or follow-up testing as directed by the City.
- O. **PERFORMING A SAFETY SENSITIVE FUNCTION** - A driver (per definition) is considered to be performing a safety sensitive function during any period in which he or she is actually driving, ready to drive or immediately available to drive a commercial motor vehicle or operate equipment.
- P. **POST-ACCIDENT TEST** - A post-accident test is an alcohol and/or controlled substances test administered to a driver following an accident involving a commercial motor vehicle.
- Q. **PRE-EMPLOYMENT TEST** - A pre-employment test is an alcohol and/or controlled substances test administered to an individual after a conditional offer of employment and

will successfully pass before the individual performs a safety-sensitive function for the City.

- R. **RANDOM POOL** - All employees possessing a Commercial Drivers License (CDL) and that license is required for their position and/or is maintained by the City shall be included in the Random Pool.
- S. **RANDOM TEST** - A random test is an alcohol and/or controlled substances test administered to a driver who has been randomly selected by a scientifically valid method from among the pool of City drivers subject to such tests.
- T. **REASONABLE SUSPICION TEST** - A reasonable suspicion test is an alcohol and/or controlled substances test administered to a driver as a result of a trained supervisor's or trained City official's belief that the driver has violated the alcohol or controlled substances prohibitions of this policy. A reasonable suspicion determination must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. These observations may include indications of the chronic and withdrawal effects of controlled substances.
- U. **REFUSAL TO SUBMIT (to an alcohol or controlled substances test)**
  - 1. A verbal declination after being given a clear and specific order to submit to urine and/or breath testing.
  - 2. That an employee fails to provide adequate breath for testing or the non-production of a urine specimen without a valid medical explanation after he or she has received notice of the requirement to be tested.
  - 3. An employee engages in conduct that clearly obstructs the collection process.
- V. **RETURN-TO-DUTY TEST** - A return-to-duty test is an alcohol and/or controlled substances test administered to a driver who has violated the prohibitions prior to the driver being permitted to return to duty.
- W. **SAFETY-SENSITIVE FUNCTION** - A driver shall be considered to be performing safety-sensitive functions whenever the driver works until the time he/she is relieved from work including time spent at a facility waiting to be dispatched, inspecting or servicing the vehicle, driving or at

the controls of the vehicle, resting in the vehicle, loading or unloading the vehicle including the performance of any related paperwork, performing those duties required of a driver involved in a vehicle accident, repairing or attending to a disabled vehicle, or is immediately available to drive.

X. **SAMHSA** - Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services.

Y. **SCREENING TEST (also known as an initial test)** -

1. In alcohol testing, a screening test means an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system.
2. In controlled substances testing, a screening test means an immunoassay screen (or other DHHS-approved test) to eliminate "negative" urine specimens from further consideration.

Z. **SUBSTANCE ABUSE PROFESSIONAL (SAP)** - A substance abuse professional is a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

AA. **SUPERVISOR** - An appointed manager or supervisor employed by the City of Middletown.

BB. **TRAINED SUPERVISOR OR TRAINED CITY OFFICIAL** - A trained supervisor or a trained City official is any City supervisor or any City management person who has received a minimum of 60 minutes of training in identifying the signs and symptoms of alcohol abuse and 60 minutes in controlled substance abuse.

### **77.03 Prohibited Activities**

A. Alcohol. No driver shall perform a safety sensitive function:

- a) while having an alcohol concentration of 0.02 percent or greater as indicted by an alcohol breathe test,
- b) while using or possessing alcohol, including prescription medication containing measurable amounts of alcohol,
- c) within four (4) hours after using alcohol,
- d) within eight (8) hours following an accident, if the employee was required to be tested, unless an earlier test results in a reading of less than 0.02 percent alcohol concentration, or
- e) if the employee refuses to submit to any alcohol testing required by this policy.

B. Drugs/Controlled Substances. Employees performing safety sensitive functions shall not:

- a) use or possess illegal drugs either on duty or off-duty,
- b) use prescription drugs, unless the use is pursuant to the instructions of a physician who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle,
- c) fail to report any medical use of a controlled substance, or
- d) refuse to submit to a controlled substance test required by this policy.

C. Discipline

Violation of these prohibited activities can result in discipline up to and including termination. If disciplinary action is taken which results in removal from paid status, that discipline will take precedence over placement in paid status by this policy.

## **77.04 Testing**

Covered employees will be tested for alcohol and/or drugs in the following situations:

- A. Pre-employment testing. Any individual applying for a position performing safety sensitive functions shall undergo testing for controlled substances and alcohol after a conditional offer of employment has been made. A positive test will result in disqualification from further consideration for employment in such position.

Prior to the first time any existing employee performs a position which safety-sensitive functions for the City (i.e., transfer, new position, etc.), said employee shall be required to undergo testing for alcohol and controlled substances. A positive test will result in disqualification from further consideration for employment in such position.

Any applicant or existing employee who refuses to submit to such alcohol or controlled substance testing will be disqualified from further consideration for the vacancy, and shall be removed from the eligibility list (if one exists).

- B. Post-accident testing. As soon as practicable following an accident involving a commercial motor vehicle, the City shall test each surviving driver for alcohol and controlled substances if:
  - (a) the accident involved the loss of human life; or
  - (b) the employee driver receives a citation under state or local law for a moving traffic violation arising from the accident.

The alcohol breath test must be administered as soon as practicable, but no later than eight (8) hours following the accident, and the drug test must be administered within thirty-two (32) hours of the accident. If the alcohol test is not administered within two (2) hours of the accident, the supervisor shall complete a report explaining the reasons for the delay in conducting the test. If the alcohol test is not administered within eight (8) hours of the accident or if the drug test is not administered within thirty-two (32) hours of the accident, the supervisor shall complete a report explaining why the test was not conducted.

An employee subject to post-accident testing shall remain readily available for such testing or may be deemed by the City to have refused to submit to testing.

- C. Random. Random alcohol and drug testing will be conducted just before, during, or just after an employee's performance of safety sensitive duties. The employee will be randomly selected for testing from a "pool" of employees subject to testing. The testing dates and times are unannounced and will occur with unpredictable frequency throughout the year.

The minimum annual percentage rate for random alcohol testing shall be in accordance with the standards established by the Federal Motor Carrier Safety Administration (FMCSA) in 49 CFR Part 382 and the Federal Transit Administration (FTA) in 49 CFR Part 655. The City reserves the right to either increase or decrease the minimum annual percentage rate for random alcohol and drug testing based upon the reported violation rate for the entire industry as determined by the Federal Highway Administration and the Federal Regulations implementing drug and alcohol testing in the transportation industry.

The selection of employees for random testing shall be administered by an outside independent administrator engaged by the City to administer the program, using a scientifically valid method. This method will be a random number table of a computer-based random number generator that is matched with employee's social security numbers or some other numerical identifying factor. Under this selection process, each employee will have an equal chance of being tested each time selections are made. As a result, some employees may be tested more than once each year, while other employees may not be tested at all.

Collection site testing will be conducted at a place or places to be designated by the laboratory retained to perform testing. In the event an employee tests positive for either alcohol or controlled substances, the employee will be subject to disciplinary action up to and including discharge.

- D. Reasonable suspicion testing - Reasonable suspicion means suspicion based on a specific, contemporaneous, articulable observation by a trained supervisor or trained City official concerning the appearance, behavior, speech or body odors of an employee, including indications of the chronic and withdrawal effects of controlled substances. Reasonable suspicion drug or alcohol testing will only occur under these rules if the supervisor's observations are made during, just before, or just after the time the employee is performing work in a safety-sensitive position.

(a) In a situation where an employee is either acting in an impaired manner or the trained supervisor has reasonable suspicion to believe the employee is using or is

under the influence of alcohol or drugs, the supervisor may order the employee to undergo a drug or alcohol test. The supervisor may, but need not, seek a corroborating opinion from another trained supervisor or trained City official prior to immediately removing the employee from the job and sending the employee for drug and alcohol testing.

(b) Once the employee has been removed from the job, the supervisor is to contact the Personnel Department. If contact cannot be made at that time, the supervisor is to proceed through the next step of this procedure and make contact with the Personnel Department as soon thereafter as possible.

(c) The supervisor is to then transport the employee to the collection site for drug and/or alcohol testing immediately, but no later than eight (8) hours for an alcohol test or 24 hours for a drug test, of having determined that there is reasonable suspicion to believe that the employee is using or is under the influence of alcohol or drugs. If the alcohol test is conducted more than two (2) hours, but less than eight (8) hours, after the supervisor makes such reasonable suspicion determination, the supervisor will complete a report explaining the reason for the delay in conducting the drug or alcohol test. The supervisor is to wait at the clinic with the employee until the breath test has been completed or the urine sample has been taken. If the alcohol test is not conducted within eight (8) hours after the supervisor makes such reasonable suspicion determination, or if the drug test is not conducted within twenty-four (24) hours after such determination, the supervisor will complete a report explaining the reasons why the test was not conducted.

(d) Once the alcohol testing has been completed and a positive confirmatory test result has been received (0.02 percent or above), the employee will not be permitted to drive his/her own vehicle home at that time. The employee must make alternative transportation arrangements in order to leave the collection site or employment site. The employee will be provided transportation to the employment site, unless the employee chooses to remain at the collection site. The supervisor may, but is neither required nor encouraged to drive the employee home under this policy.

(e) The employee is to be advised not to report for work as she/he will be placed on leave without pay. If a blood alcohol or urine test has been administered, the City, or MRO, if applicable, will contact the employee once the test results are known (this normally takes 24-48 hours) and a decision has been made as to the employee's status.

(f) The results of the drug or alcohol testing will be sent directly to the Personnel Department. When the results are obtained, the employee's supervisor and department head will meet with Personnel to determine the appropriate course of action to be taken in accordance with the discipline policy of the City. This is a confidential process. Test results will be held strictly confidential and are not to be discussed or shared with anyone who does not need to know. Likewise, a supervisor must not discuss the suspected reason for a referral or discipline action with anyone who does not need to know.

(g) Once the test has been completed and the employee has been sent home, the supervisor must submit a written report to the Personnel Director outlining, in detail, the event and the behavior observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report must be done within 24 hours of the testing. This information will assist the department in assessing the appropriate discipline to be considered.

- E. Return-to-Duty Testing and Follow-up Testing Before an employee returns to duty requiring the performance of safety-sensitive job functions after engaging in conduct prohibited by Federal Regulations as set forth in this policy, the driver shall undergo a return-to duty alcohol and/or controlled substance test with a result indicating an alcohol concentration of less than 0.02 and a verified negative result for controlled substance use. In any event, an employee will not be allowed to return to duty without first having been evaluated by the City's EAP provider or his private physician in order to determine the employee's fitness-for-duty.

Following a determination that an employee is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, as determined by a substance abuse professional, the employee is subject to unannounced follow-up alcohol and/or controlled

substances testing in consultation with a substance abuse professional. Consequently, the employee will be given at least six (6) random tests during the 12 month period after returning to duty with the possibility of follow-up testing for up to 60 months after the employee returns to duty.

- F. Voluntary Testing - All employees may volunteer for alcohol or controlled substance testing at any time. This testing provides an opportunity for all management, supervisory, and non-supervisory personnel not part of the random pool to demonstrate a commitment to the goal of a drug and alcohol free workplace.

#### **77.05 Testing Procedures**

The City has entered into an alcohol and drug testing agreement with a certified laboratory. Testing may be done on both urine and breath (blood alcohol may also be required). All drug and alcohol testing will be conducted in conformance with the procedures and rules established by the federal Omnibus Transportation Employee Testing Act of 1991 and its implementing regulations. The laboratory will handle taking the sample (in standard collection kits) from the regular hours of 8:00 a.m. until 5:00 p.m. (Mon. thru Fri.) and will also be available during non-regular business hours and days. All specimen collection will be done in accordance with instructions from the certified laboratory.

##### **A. ALCOHOL TESTING.**

Employees will be required to submit to breath testing using an approved evidential breath-testing (EBT) device. A state-certified breath alcohol technician (BAT) will administer an initial screening test. If the employee tests positive for alcohol, then the BAT will conduct a confirmation test. The City will take action based only upon the positive results of the confirmation test, 0.02 percent or greater). All procedures and steps used in conducting both the initial and confirmation tests will be performed in conformance with the federal law and federal regulations.

(a)Preparation For Breath Alcohol Testing.

The following procedures summarize the procedures established by the Federal Highway Administration regulations implementing drug and alcohol testing under the federal law. These procedures are binding and are subject to change in the event the FHWA or other government agency changes the regulations on drug and alcohol testing of employees in safety-sensitive positions.

- (1) When the employee enters the collection site, the BAT will require him or her to provide positive identification (i.e., photo I.D. or employer identification).
- (2) The BAT will explain the test procedure.
- (3) Employees will be required to complete and sign various forms used to document the testing process. Refusal to sign the test form(s) will be regarded as a refusal to take the test.
- (4) Employees will be instructed to blow forcefully into the mouthpiece for at least 6 seconds or until the EBT indicates that an adequate amount of breath has been obtained.
- (5) If an employee tests positive during the screening test, the employee shall not eat, drink, put any object or substance in his or her mouth and, to the extent possible, not belch during the 20 minute waiting period before the confirmation test is conducted.
- (6) Refusal by an employee to complete and sign the test form, to provide breath, to provide an adequate amount of breath, or other failure to cooperate with the testing process in a way that prevents the completion of the test will subject the employee to discipline, up to and including discharge.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

(b) Blood Alcohol Testing.

Blood alcohol testing is authorized only in the following circumstances:

(1) When policy rules require a post accident test, and an EBT is not readily available.

(2) When an employee attempts and fails to provide an adequate amount of breath, blood alcohol testing may be used for both screening and confirmation test purposes.

All blood alcohol testing will be conducted in conformance with the procedures established by the Federal Regulations.

(c) Results of Positive Test.

Any employee who tests positive for alcohol concentrations of 0.02 or higher is subject to discipline, up to and including discharge.

If a confirmation alcohol test measures 0.04 or greater, the City is required to:

(1) Remove the employee from the safety sensitive position;

(I) refer the employee to the City's EAP for assessment of an alcohol problem and a determination of whether participation in a treatment program is necessary;

(II) obtain verification from a substance abuse professional that the employee has complied with any required rehabilitation or treatment program; and

(III) re-test to verify that the employee's alcohol concentration is below 0.02.

(d) The employee will subsequently be given at least six (6) random tests during the next year with the

possibility of follow-up testing for up to 60 months.

If the confirmation test level is between 0.02 and 0.039 percent, the employee will be removed from the safety-sensitive position for a minimum of 24 hours following the administration of the test.

In the event that an employee is required to comply with breath testing as a result of a law enforcement investigation, the employee must submit to the examination. The test will be considered enforceable for purposes of this Policy, if the testing officer is a qualified BAT and the EBT that was used for the test has been certified by the State of Ohio or a local law enforcement agency.

#### B. TESTING FOR CONTROLLED SUBSTANCES.

For purposes of this Policy and the Federal Regulations, the City will utilize a 5-panel drug screen consisting of the following drugs:

- a. Tetrahydrocannabinol (Marijuana drug)
- b. Cocaine
- c. Amphetamines
- d. Opiates (including heroin, morphine and codeine)
- e. Phencyclidine (PCP)

In instances where there is reason to believe an employee is abusing a substance other than the five drugs listed above, the City reserves the right to test for additional drugs under the City's own authority using standard laboratory testing protocols.

Drug testing is conducted by analyzing an employee's urine specimen (through a certified testing lab). This procedure will include use of a split specimen testing procedure. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles will be sent to a certified lab. Only the "primary" specimen bottle is opened and used for the urinalysis. The "split" specimen bottle will remain sealed and is stored at the lab. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee has 72 hours to request the split specimen be

re-tested at the same lab or be sent to another certified laboratory for analysis, at the employee's expense. In the event that the split specimen sample reveals no confirmation of a controlled substance, the City will reimburse the employee for the cost of the split sample test. An employee who fails to notify the medical review officer (MRO) within 72 hours of receiving the results of the positive test of the employee's desire to have the split specimen tested shall be deemed to have waived the employee's right to seek testing of the split specimen.

In some cases the employee may be unable to provide a urine specimen. After a reasonable waiting period (not to exceed one hour), the supervisor may terminate the testing procedure.

(a) Preparation For Drug Testing

The following procedures summarize the procedures established by the Federal Highway Administration regulations implementing drug testing under the federal law. These procedures are subject to change in the event the FHWA or other government agency changes the regulations on drug and alcohol testing of employees in safety-sensitive positions.

- (1) The employee will be required to provide positive identification (i.e., photo identification).
- (2) The employee will be instructed to provide at least 45 ml of urine under the split sample method of collection. This will be done in a specifically designated "donor" bathroom.
- (3) The urine sample shall be divided into a primary specimen (30 ml) and a split specimen (15 ml).
- (4) If the test result of the primary specimen is positive, the employee may request within 72 hours of receiving the positive test result, that the medical review officer (MRO) direct that the split specimen be tested in the same or a different DHHS-certified laboratory for presence of the drug(s) for which a positive

result was obtained in the test of the primary specimen.

- (5) An employee will be removed from the safety-sensitive position pending the result of the test of the split specimen.
- (6) If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test.
- (7) Employees will be required to complete and sign various forms used to document the testing and chain of custody process. Refusal to sign the test form(s) will be regarded as a refusal to take the test.
- (8) Refusal by an employee to complete and sign the test and chain of custody forms, to provide an adequate amount of urine (to be decided on a case-by-case basis), or otherwise failure to cooperate with the testing process in a way that prevents the completion of the test will be considered grounds for disciplinary action, up to and including discharge.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

(b) Results of a Positive Test

Any employee who tests positive for controlled substances is subject to discipline, up to and including discharge.

As with an alcohol misuse violation, the City is required to act upon a positive drug test result in the following manner:

- (1) Remove the employee from the safety sensitive position. This removal will only take place after the employee has been allowed to meet or speak with a Medical Review Officer

(MRO) in order to determine that the positive drug test did not result from the authorized use of a controlled substance;

- (2) Refer the employee to the City's EAP for assessment and subsequent compliance with recommended rehabilitation after a determination of a drug problem has been made;
- (3) Employee must be evaluated by a substance abuse professional or MRO and determined to be fit to return to work prior to their release of the employee; and
- (4) Employee must have a negative result on a return-to-duty drug test. Follow-up random testing to monitor the employee's continued abstinence from drug use will be required if the employee is determined as needing rehabilitation as specified by a substance abuse professional.

(c) MEDICAL REVIEW OFFICER (MRO).

1. The MRO is a licensed physician with knowledge of substance abuse. The MRO shall not be an employee of the testing laboratory.
2. The MRO shall;
  - a) review confirmed positive test results, including the chain of custody, and
  - b) provide the employee an opportunity to discuss positive test results before contacting the City.
3. A positive test result shall be confirmed to the City by the MRO without consulting the employee only if;
  - a) the employee declines, or
  - b) the employee fails to contact the MRO within five (5) days of notification.

4. The MRO shall communicate test results to the contact person with the City which will be the Public Service Manager (Transit) and the Director of Maintenance Services (Maintenance) in accordance with this policy.

#### **77.06 Prescription Drugs**

Before performing work-related duties, employees must notify their supervisor if they are taking any legally prescribed medication, therapeutic drug, or any non-prescription drug which contains any measurable amount of alcohol or which carries a warning label that indicates the employee's mental functioning, motor skills, or judgment may be adversely affected by the use of this medication. A written report of this notification is to be filed by the supervisor with the Personnel Division. It is the responsibility of the employee to inform his/her physician of the type of safety-sensitive function that the employee performs in order that the physician may determine if the prescribed substance could interfere with the safe and effective performance of the employee's duties or operation of City equipment. However, as required by the Federal Regulations, any employee who uses or possesses medication containing alcohol while on duty or who tests positive for alcohol will be removed from his/her position, and be subject to the provisions of this Alcohol and Controlled Substance Policy, even though the reason for the positive alcohol test is the fact that the employee's prescription medication contains alcohol.

A legally prescribed drug is one where the employee has a prescription or other written approval from a physician for the use of the drug in the course of medical treatment. The prescription must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing City business is prohibited.

#### **77.07 Records**

1. Confidentiality

The City respects the confidentiality and privacy rights of all of its employees. Accordingly, the results of any test administered under this Policy and the identity of any employee participating in the City's EAP or other

assessment or treatment program will not be revealed by the City to anyone except as required by law. The City will release an employee's records as directed by the express written consent of the employee authorizing release to an identified person. In addition, the City will ensure that any lab or agency used to conduct testing under this Policy will maintain the confidentiality of employee test records. However, the lab or testing agency will disclose information related to a positive drug or alcohol test of an individual to the City's designated MRO contacts in Transit and or Maintenance. The City may disclose this information to the employee or to the decision-maker in a lawsuit, grievance, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders or subpoenas. The medical review officer (MRO) will not reveal individual test results to anyone except the City's designated contacts, unless the MRO has been presented with a written authorization from the tested employee. The MRO may reveal to the designated city contacts, relevant information as to whether the employee is qualified to perform safety-sensitive functions or whether the employee has tested positive for alcohol or a controlled substance. The City may disclose this information to the employee or to the decision-maker in a lawsuit, grievance or other proceeding on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders and subpoenas; or upon the tested employee's written authorization and consent.

All records related to drug and alcohol tests of individual employees will be maintained in individual files separate from the employee's personnel file. These records will be stored in a locked cabinet and access will only be allowed to those City employees who have a legitimate need to review the records of a particular employee.

## 2. Record Keeping

### a. Test/Collection Records

Original test results will be maintained by the Medical Review Officer. The City will also maintain records received from the MRO regarding test results which will be stored in a secure location with controlled access. All records relating to the urine and alcohol

collection process will be maintained by the City, the Medical Review Officer, and the collection site (if other than the Medical Review Officer and/or on-site collection).

b. Record Retention Schedule

Ten years - records relating to the administration of the Fit for Work policy including policy and program development, employee awareness and supervisory training, collection site training, and program administration.

Five years - records of positive drug and alcohol tests; refusals to take required drug/alcohol tests; calibration documentation; and referrals to the substance abuse professional

Two Years - records relating to the breath and urine collection process and training.

One Year - records of negative and canceled drug and alcohol test results.

**77.08 Questions Regarding CDL Drug & Alcohol Policy**

The designated contact persons have been designated by the City to answer any questions covered employees or outside agencies, individuals or other interested parties may have about this policy and the materials accompanying it.

## CHAPTER 78 - VEHICLE/EQUIPMENT PROCEDURE

## ACCIDENT

## REPORTING

### 78.01 Procedure

Any accident involving a city vehicle or equipment must be reported as follows (including damage to private property):

Call and report to the supervisor immediately, no matter how minor the damage.

Always call the Police or law enforcement agency having jurisdiction and report any injuries.

Remain at the scene of the accident until the police respond and make their investigation.

Obtain names of other parties involved and license numbers of other vehicles.

Fill out accident report (as referenced below) and turn into the immediate supervisor immediately.

The police or law enforcement agency having jurisdiction does not have to be notified if a city vehicle and/or equipment damage is estimated \$500 or less and there are no injuries and the incident occurs on City property.

Public safety vehicles responding to emergency calls need not stop, but must report accidents as soon as possible.

### 78.02 Police Accident Report

The Police Division shall investigate appropriate vehicular accidents and transmit one copy of the police accident report to the Department Director's office within two workdays of the accident.

The Police supervisor on duty shall see the accident is completely investigated and any appropriate enforcement action is taken.

### 78.03 Employee Accident Report (Form 8.8.1)

The driver shall report the accident to the Department Director or Division Manager and complete and sign the Employee

Accident Report (Form 8.8.1) as soon as possible after the event.

The Employee Accident Report shall be submitted to the employee's Department Director or Division Manager for investigation.

#### **78.04 Departmental Accident Investigation Report (Form 8.8.2)**

The Department Director or Division Manager shall complete the Departmental Accident Investigation Report and forward four copies of both the Employee Accident Report Form 8.8.1 and Departmental Accident Investigation Form 8.8.2 to the Finance Director within three working days of the accident. All accidents with over \$500 in damage or accidents involving a City driver with two or more previous accidents on his/her record shall also be reported to the City Manager's office with copies of the police report, the Employee Accident Report (Form 8.8.1) and Departmental Accident Investigation Report (Form 8.8.2). The Department Director or Division Manager shall be responsible for any disciplinary recommendations resulting from their investigation.

#### **78.05 Report Distribution**

Reports shall be distributed by the (Personnel Division) Finance Department as follows:

- 1 copy to Safety Officer
- 1 copy to Municipal Garage
- 1 copy to Personnel File
- 1 copy to Department

## **CHAPTER 81 - BACKGROUND**

**81.01** The Community Disaster Plan is modeled after the Incident Command System. This plan appoints one Incident Commander (the Fire Chief) who then appoints a number of staff members. These staff members are the Public Information Officer, the Safety Officer (usually from the Fire personnel), the Liaison Officer (usually the Fire Assistant Chief), the Operations Officer, the Logistics Officer, the Planning Officer, the Finance Officer (usually the Finance Director), and the Administrative Officer (from the City Manager's Office). One person may hold more than one position, depending on the complexity of the situation.

The staff members above are located at the Field Command Post. In large operations the Emergency Operations Center will be activated. This is in addition to the Field Command Post. The EOC is commanded by the City Manager or his designee. A further description of the staff functions is found in the plan outline which follows.

### **81.02 MISSION STATEMENT**

It is our mission to assure an organized and coordinated approach to emergency operations management in the City during any incident which causes disruption of normal community functions and poses a threat to the safety of the citizens or their property.

### **81.03 DEFINITIONS**

- 1. Command Post (CP):**  
The on-site location where the Incident Commander and his staff coordinate the disaster relief efforts.
- 2. Community Collection Point (CCP):**  
The location to which the general public can be directed in a few minutes time to remove them from danger and provide community support during the time of the disaster. This location is expected to be maintained a short time (4-8 hours).
- 3. Disaster:**  
Any community emergency that disrupts the community causing concern for the safety of the citizens, including danger to lives and property.
- 4. Disaster Relocation Center (DRC or Shelter):**  
The location where the general public can be housed, fed and provided general community support until the danger from

disaster in the community is over. This may be hours to days to weeks.

**5. Emergency Operations Center (EOC):**

The location where representatives of any public safety or support agency are located to provide any and all direct support to the command post as required. This location would not usually be on the disaster site. The members of the EOC provide any resources needed by the command post.

**6. Inner Perimeter:**

The specific boundary at the disaster scene that surrounds the danger zone containing the incident site and victims, inside which only authorized personnel should be present.

**7. Outer Perimeter:**

The boundary outside of the inner perimeter around the disaster scene inside which all other disaster personnel and equipment are collected and utilized, and outside which bystanders are restricted from entering the disaster scene. This area may contain designated locations for staging of equipment, personnel, media, etc.

**8. Staging Area:**

A designated area for additional personnel and resources to report at the emergency site for briefing and assignment.

**81.04 PUBLIC SAFETY - OPERATIONS GUIDELINES**

As set forth in the Ohio Revised Code, the Fire Chief of the jurisdiction wherein a disaster occurs is the general supervisor in the area of public safety at the site of the disaster (ORC Sec. 737.11). It shall be a cooperative effort between the police, fire and other public safety departments, who shall be responsible for preservation of the peace, protection of life and property, and enforcement of state and municipal laws. Other state/local agencies shall act in a coordinating or support role as necessary.

**81.04.1 Duties of First Responders**

**I. Identification/Evaluation**

- A. Upon the first responding units arrival on the scene, the personnel will identify the situation as the first step in determining whether or not the Disaster Plan

should be initiated. The emergency should be identified as one of the following:

1. Tornado
2. Train Derailment
3. Haz-Mat Incident
4. Flood
5. Bus, Plane, or Public Transit Accident
6. Earthquake
7. Fire
8. Explosion
9. Bomb
10. Building Collapse
11. Nuclear Radiation Accident

B. After identifying the situation, the first responding units will conduct an evaluation to define the seriousness of the incident as one of the following;

1. Level I - Potential Emergency Condition

An incident which can be controlled by on-duty personnel and does not require evacuation other than the involved structure or on-site outdoor area. The incident is confined to a small area and does not pose an immediate threat to life or property.

2. Level II - Limited Emergency Condition

An incident involving a greater hazard or larger area which poses a potential threat to life or property and which may require call-out of additional personnel and a limited evacuation of the surrounding area.

3. Level III - Full Emergency Condition

An incident involving a severe hazard or large area which poses an extreme threat to life and property, and depending on the type of incident, will probably require a large-scale evacuation; or any incident requiring the expertise and/or resources of county, state, federal, or private agencies and organizations.

- C. At all times during an incident, re-evaluation must take place. The following questions should be asked
  - 1. Can the situation be handled with on-hand resources?
  - 2. Has the level escalated or de-escalated?
- D. The first responders should bear in mind that the disaster site may represent a crime scene. Any items which may have value as evidence should not be moved or touched, provided such action poses no danger.

## **II. Initiation of Emergency Plan**

Upon determination by the first responders that the Emergency Plan should be initiated, the following will take place.

- A. The following personnel will be contacted at once:
  - 1. City Manager
  - 2. Fire Chief
  - 3. Police Chief
  - 4. Staff Deputy Chief
  - 5. Fire Staff Deputy Chief
  - 6. Fire Training Officer
  - 7. Police Patrol Deputy Chief
  - 8. Police Services Deputy Chief
  - 9. Police Investigations Deputy Chief
  - 10. Director of Maintenance Services
  - 11. Health Commissioner
  - 12. Butler County Civil Defense
  - 13. Middletown Regional Hospital
  - 14. Cellular One (if phone service is disrupted)
    - a. Dial 1-800-589-2351
    - b. Provide vital information
      - \* Name
      - \* Organization
      - \* State, county, city from where you are calling

- \* Nature of disaster
- \* Location of disaster
- \* Estimated number of phones needed
- \* Phone number where you can be reached

- c. Please wait. Within approximately 15 minutes you will receive a call from a Cellular One representative. Be prepared to provide the name of a person and time to pick up the cellular phones.
- d. Arrange for phone return. Call Cellular One the next business day to arrange for phones and equipment to be returned, or for added phone assistance if needed.

Other agencies or organizations may be contacted at the discretion of the Incident Commander. (ie, Cellular One for emergency telephones.)

- B. A Command Post will be selected and the location communicated to the communications center.
  1. The Command Post may be a Command Vehicle until more permanent facilities can be located.
  2. The Command Post should be on the outer perimeter of the emergency site, but close by and easily accessible for proper communication with the staging area.
  3. Alternate sites for the Command Post as well as staging and triage should be considered as the situation may escalate.
- C. A Staging Area will be selected and the location communicated to the communications center. All incoming resources should be directed to this area.
  1. The staging area will be close to, but a safe distance from, the field command post and the incident site, inside the outer perimeter and outside the inner perimeter.

2. All incoming resources will respond to the staging area to be briefed and to stand by for the order to respond.
3. Equipment will be issued to those who need it at this location, and special equipment they possess will be collected.
4. Accurate records of equipment, assignments, and personnel will be kept at the Staging Area. Debriefing of personnel after they are relieved of their assignment will also occur there.

#### **81.04.2 Initial Duties of Incident Commander**

##### **I. Assignment of Staff Positions**

- A. Upon arrival at the Command Post by the Incident Commander, he will appoint the following staff positions;
  1. A Scribe. Duties include the recording of all activities and decisions made.
  3. A Public Information Officer. The duties of this position are to establish a media-briefing center, brief the media, hold press releases, and disseminate information about the emergency.
  4. A Liaison Officer. The duties of this position are to coordinate efforts of the subordinate positions, to oversee mutual aid resources, and to maintain a reserve force.
  5. A Safety Officer. The duties of this position are to assess all proposed activities from a safety standpoint, and to call any unacceptable risks to the attention of the Incident Commander.
  6. An Operations Officer. The duties of this position are to supervise staging, fire suppression, EMS, security, investigation and traffic.
  7. A Logistics Officer. The duties of this position are to oversee communications, transportation, food,

facilities, and to liaison with Red Cross, Salvation Army, and other auxiliary services.

8. A Planning Officer. The duties of this position are to evaluate the situation and predict the probable events which will take place. Duties also include maintaining response status, demobilization, situational status (SIT/STAT), technical advisors, and documentation.

One person may fill more than one of the positions listed above, depending on the complexity of the situation. For example, the Public Information Officer and the Planning Officer may be one person.

- B. In addition to these positions, there will be a Finance Officer (the Finance Director) in charge of procurement and an Administrative Officer from the City Manager's Office in charge of time reports and claim vouchers.

## **II. Additional Duties**

After the situation has been assessed and the appropriate staff appointed, it is the responsibility of the Incident Commander to secure the scene and to bring the emergency to a successful conclusion in a timely manner, using those methods necessary which meet with the approval of the City Manager.

### **81.04.3 Duties of Fire Personnel**

#### **I. Initial Response**

- A. The duties of the first on-scene Fire personnel are to initiate the SOP of the Middletown Fire Department, which include the following;
  1. Establish Fire Command and make assignments of Triage Officer, Transport, etc.
  2. Estimate actual/potential casualties.
  3. Establish on-scene command area with police (if on scene).
  4. Establish triage area and consider secondary area.
  5. Establish staging area with police (if on scene) and consider secondary area. All arriving fire and

mutual aid agencies to report of staging area. Capability of personnel should be reported to the staging area control officer.

6. Establish patient loading zone. Squads should be routed to assure that none need to back up, but are always moving in a forward direction.
7. Communicate special needs to dispatch center and hospital.
8. Establish liaison with police commanders at earliest possible time.

- B. Fire Personnel should be aware that the situation may be a crime scene, and should act accordingly when such actions do not pose a danger. Items of value as evidence should not be handled or moved until approved by the Police Division's evidence technician.

## **II. Incident Evaluation**

Points to remember when evaluating the incident include;

1. Number of casualties.
2. Type of casualties - i.e., surgical, medical, radiation, etc.
3. Location and scope of incident.
4. Special equipment needed to handle the incident.

## **III. General Guidelines and Principles**

Once the Disaster Plan has been activated, the following guidelines will be followed;

1. The first responding medical unit should not leave the scene. This unit will take command of EMS operations, following these guidelines, until relieved.
2. Responding units should report to the staging area first.
3. If the first arriving squads are assigned to treatment, their cots are to be left in the vehicles at the staging area. The personnel will report to the treatment area with the equipment called for.
4. The responding squads are only to transport victims after triage/treatment and released for transport by EMS command.

5. Communications with the hospital(s) is to be established ASAP, and pertinent information passed on. Care should be taken to avoid overloading a particular facility.
6. Transportation routes to the hospital are to be coordinated with the police commander.
7. When possible, family units are to be kept together.

#### **81.04.4 Duties of Police Personnel**

##### **I. Initial Response**

The duties of the first responding Police personnel are to identify and evaluate the situation as described above. In addition, they should;

1. Establish a field command post with Fire (if on scene).
2. Establish a staging area with Fire (if on scene). All incoming personnel will report to this area.
3. Establish a liaison with the Fire department at the earliest possible time.
4. Establish an inner perimeter, except in the case of HAZ-MAT. In this instance, the Fire Department will establish the inner perimeter. Only authorized emergency personnel and equipment will be permitted to enter the inner perimeter.
5. Establish an outer perimeter. This will provide for rerouting of traffic and emergency access routes and provide safe space for the staging area, triage center, field morgue, medial briefing center, etc.
6. Evaluate the scene from an investigatory point of view. Ascertain if it is a crime scene, and assist the Fire personnel in treating it so.

##### **II. Perimeter Control**

It is the obligation of the Law Enforcement personnel to assure that rescue personnel have safe and easy access to and from the incident site.

1. Entrance control points where authorized personnel and equipment are permitted to enter will be established. Conflicts or questions are directed to the command post.
2. The area should not be isolated to such an extent that key personnel who may be of assistance are prohibited from entering.
3. Safe routes in the outer perimeter where there is no threat of harm to personnel or equipment will be identified and this movement permitted.
4. Special passes for safety personnel, residents, etc. supplied by the Butler County Civil Defense will be issued where applicable.

### **III. Support of Triage Operations**

The Police personnel will assist the Fire personnel in the triage operations in the following manner;

1. Control access to the triage area.
2. Provide routes to and from the triage area and the hospital(s).
3. Perform any other triage operations requested by the Triage Officer.

### **IV. Evacuation**

- A. If the decision is made to evacuate a large area, the Police will coordinate with the Fire personnel and follow the SOP set forth by the Fire Department.
  - B. The Butler County emergency management agency will be contacted for assistance.
- B. The Red Cross will be alerted (in advance if possible) and advised to set up relocation points.

### **V. Investigation**

If there is evidence of a crime involved in the incident, the Police department will bear the responsibility of any investigation and prosecution.

## **81.05 Emergency Operations Center (EOC)**

### **I. Command of EOC**

- A. A central direction and control center will be established for use in major incidents or those affecting large areas.
- B. The EOC will be commanded by the City Manager or his designee. He will appoint whatever staff he deems necessary to carry out the duties of the EOC.
- C. The EOC will be located in the Police Training Room. If this location is not feasible, Fire Headquarters will be the alternate location.
- D. Implementation of the EOC is supplemental to the field command post, not in place of.

### **II. Responsibilities of EOC**

The EOC will be responsible for the following functions;

- 1. Coordination of long range planning and determination of additional needs
- 2. Coordination of auxiliary agencies.
- 3. Coordination of all activities when multiple field command posts are in use.
- 4. Coordination with other jurisdictions that might be involved or affected.
- 5. Locating and obtaining resources requested by the field command post.
- 6. Coordination of the movement of resources into and out of the affected area.

7. Coordination of requests for state and/or federal assistance.

## **81.06 POST INCIDENT OPERATIONS**

### **I. Entry Into Area**

- A. Damage assessment, public health and safety inspections, debris removal, salvage operations, etc. will take place only upon the authorization of the incident commander.
- B. To permit a coordinated entry into the area, evacuated persons will be permitted to return in stages with those living farthest from the incident returning first, and those living nearest returning last.
- C. The following people will be granted access to the area;
  1. Residents with valid identification.
  2. Owners, managers, or employees of businesses.
  3. Public utility employees.
  4. Media with proper passes.
  5. Persons authorized by the EOC.

### **II. Critique and Debriefing**

- A. Personnel of each agency or department involved in the operations should be given the opportunity to discuss the operations to:
  1. Provide agency commanders and Department Directors with information on those areas of the operations which functioned well, and those which functioned poorly;
  2. Provide information which will assist in the up-dating, correction, and enhancement of emergency operations plans; and
  3. Provide information which will assist in preventing the same mistakes in the future.
- B. Discussions will be held with the Butler County Mental Health agencies to avoid any adverse residual effects.

- C. All appropriate post incident reports will be completed and forwarded to the appropriate authorities as soon as possible after the termination of the emergency operations

## CHAPTER 91

### 91.01 DEFINITIONS

**Appointing Authority:** The person in a position to hire or fire personnel, namely the City Manager, the Board of Health, the Municipal Court Judge, or the Director of Court Services/Clerk of Court.

**Classification:** A group of positions (or one position) that:

- 1) have/has similar duties and responsibilities,
- 2) require(s) like qualifications, and
- 3) can be equitably compensated by the same salary range.

**Classification Series:** Any group of classification titles that have the identical name but different numerical designations, or similar titles except for designated levels of supervision, except for those classification series established by Civil Service Commission.

**Classification Title:** The official designation or name of the class as stated in the class specification. It shall be used on all personnel records and actions. Working or office titles may be used for purposes of internal administration.

**Employee:** An individual who performs duties and responsibilities of a position.

**Employment Date:** The date on which the employee was appointed.

**Employment Status:** The following are employment status categories:

- Full-time Regular
  - Full-time Probationary
- Part-time Continuing
- Part-time Temporary
  - Part-time Seasonal

Full-time regular employees are those employees who are scheduled to work 40 hours per week for the City and have worked for the City at least six months. Full-time regular employees must have successfully completed their probationary period. Reinstated employees do not serve a probationary

period upon reinstatement unless reinstatement is conditioned upon the successful completion of a new probationary period.

Part-time employees are those employees who were hired to work less than 40 hours per week. They may be continuing, temporary or seasonal but are always in a probationary status.

Temporary and Seasonal Employees are appointed for short periods of time (usually less than six months). Temporary appointments, such as summer help, are made for the purpose of carrying out necessary seasonal or temporary, short-term assignments. Temporary and seasonal employees will be in a probationary rather than regular status.

All new full-time employees who are hired with intention of becoming regular employees are required to serve at least a six-month probation in a full-time probationary status, except as otherwise provided by applicable collective bargaining agreement. The probationary period may be extended by the City. If the employee's performance is satisfactory, the employee shall be notified in writing of his/her successful completion of the probationary period and will then be changed to a full-time regular status. No appointment is final until the probationary period is successfully completed.

Each employee will be rated by the supervisor; once at midterm and once again prior to the end of the probationary period.

During the probationary period (except probation due to promotion), the employee is an at-will employee and may be separated at any time for any reason.

**Grievance:** A claim by an employee that he/she has suffered harm or injury by the interpretation, application or violation of the terms of these policies and procedures or a request that a disciplinary action be reviewed.

**Position Description:** An analytical statement of position tasks, based on a needs analysis and including conditions of work and supervisor employee relations. A position description is not intended to be a limitation or guarantee of work.

**Pay Range (or Grade):** The specific salary level a position receives within a given classification series showing the actual pay steps.

**Pay Step:** The actual pay within the pay ranges or grades.

**Position:** A group of currently assigned duties and responsibilities requiring the full or part time employment of one person. A position may be occupied or vacant.

**Promotional Probationary Employee:** Promoted employees will be required to serve a six-month probation upon being promoted to a new position. During this time, the employee's abilities and performance will be evaluated by the supervisor. If the employee's performance is satisfactory, the employee shall be notified in writing of his/her successful completion of the probationary period. If the performance is not deemed satisfactory, the employee shall be returned to his/her old position if a vacancy exists.

## **CHAPTER 92 - AT-WILL EMPLOYEES**

### **92.01 Definition**

Employees serving at the will of the appointing authority are at-will employees. At-will employees include all probationary employees (except probation upon promotion) and unclassified employees. The position description for each position will determine whether it is classified or unclassified.

### **92.02 Policy**

An at-will employee may be separated from employment at any time for any reason or for no reason at all so long as the reason does not violate any federal, state, or local employment protections.

## **CHAPTER 93 - PERSONNEL APPOINTMENTS**

### **93.01 Requisition**

The Personnel Requisition Form (Form 2.3.1) must be completed by the Department Director for each classification title. The requisition is forwarded to the Personnel Division for vacancy verification, to the Finance Department for budgetary approval, to the City Manager's office for EEO review and back to Personnel for position approval.

### **93.02 Selection and Appointment - Classified Positions**

All appointments, except as otherwise provided by State law and local ordinance, are made by the City Manager as the appointing authority for the City except that Health District employees shall be appointed by the Board of Health and Environment pending Civil Service Commission approval (for classified positions). Appointments to classified positions are made from eligibility lists furnished by the City Civil Service Commission.

Entry-level positions shall be filled in accordance with Middletown Codified Ordinance 250.24 and 250.245.

### **93.03 Physical Examination and Drug Test**

After successful completion of the written examination or other evaluations and interviews, and then confirmation of the City Manager's appointment, or Health Board appointment if applicable, the applicant will receive a conditional appointment letter from the Personnel Division. He or she will then be scheduled for a physical examination or evaluation and drug test by a City physician or a contracted medical facility. Any individual who fails a drug test, as a pre-employment fitness for duty physical examination shall be advised that they will not be considered for that position. The applicant will also be advised that they will not be considered for employment in any position for at least six (6) months.

The drug test will determine if the applicant is illegally using a controlled substance. A controlled substance includes, but is not limited to, the following:

- |              |                  |
|--------------|------------------|
| a) Marijuana | h) Tranquilizers |
| b) Cocaine   | i) Methaqualone  |

- |                        |                   |
|------------------------|-------------------|
| c) Opiates             | j) Lysergic Acid_ |
| d) Diethylamide(LSD)   | k) Mescaline      |
| e) Phencyclidine (PCP) | l) Heroin         |
| f) Amphetamines        | m) Morphine       |
| g) Barbiturates        |                   |

Certain City positions (to include the Police and Fire Divisions) also require a physical agility test, a psychological examination, and/or a polygraph exam.

After these examination and evaluation requirements are passed, the new employee will be promptly signed up for benefits and receive an initial orientation from the Personnel Division.

## **CHAPTER 94 - GENERAL PERFORMANCE EXPECTATIONS (FITNESS FOR DUTY)**

### **94.01 Expectations**

All employees shall maintain sufficient competency to properly perform the duties of their position. Employees of the City of Middletown shall perform their duties in a manner which will maintain the highest standards of safety and efficiency in carrying out the mission, objectives, and functions of the City of Middletown.

### **94.02 Unsatisfactory performance**

Unsatisfactory performance includes, but is not limited to, the behavior outlined as follows:

- a) Violation of City policy and procedures,
- b) Unwillingness or inability to perform assigned tasks,
- c) Failure to conform to established work standards,
- d) Failure to take appropriate action that is within the employee's responsibility,
- e) Absence without leave,
- f) Excessive absenteeism,
- g) Repeated poor performance evaluations,
- h) Written record of repeated infractions of rules, regulations, directions, or orders;
- i) Lack of energy in performance of duties,
- j) Carelessness in performance of duties,
- k) Failure to assist citizens in a courteous manner within established City policy.

## **CHAPTER 95 - PERFORMANCE APPRAISAL**

### **95.01 Purpose**

A performance appraisal provides a method to evaluate an employee's performance and develop a plan of action for improvement. This evaluation and development of employee goals or plan of action should be based on the employee's duties and responsibilities as defined in the position description. Employees in turn receive feedback on their performance and can be rewarded for their abilities and achievements.

### **95.02 Department Directors and the Chiefs of Police and Fire**

The performance of Department Directors and the Chiefs of Police and Fire will be reviewed periodically by the City Manager.

The performance of the Health Commissioner will also be reviewed annually by the Board of Health.

### **95.03 Other City Employees**

Other City Employees will have their performance evaluated by their immediate supervisor annually on the employee's anniversary date. The performance appraisal process shall be conducted in a timely manner and the original evaluation form will be reviewed by the employee, Department Director, Personnel Division, Division, City Manager (if appropriate), and then filed in the Personnel Division.

## **CHAPTER 96 - COMPENSATION**

### **96.01 Responsibility for Administration**

The Finance Director and Personnel Division shall be responsible for keeping proper records for each employee, which shall include present range, step and date of next increase. The Personnel Division shall be responsible for notifying the proper persons of such information and shall be responsible for coordinating the salary and wage step increase procedures. The Department Director shall be responsible for determining salary and wage step increases.

### **96.02 Notification and Time Span Between Pay Steps**

The Personnel Division shall notify the Department Director of those eligible for a salary/wage increase on the "Recommendation for Salary Increase" form 2.6.2A by the 10th of the month prior to the month in which the employee is scheduled to be reviewed. The Personnel Division will complete items 1 through 7. The Department Director will make the recommendation as to whether that employee may be advanced to the next pay step within the salary range. All of the employee's personnel records and performance shall be considered in the recommendation with major emphasis placed on the evaluation of services rendered. The time span between pay steps will be in accordance with the Salary Ordinance or applicable collective bargaining agreement.

### **96.03 Approval**

Upon the determination of the Department Director and the approval of the City Manager or his designee, the employee may be advanced one step in his/her pay range until the maximum step has been reached. In certain circumstances the City Manager may approve advancement up to the maximum step of the employee's range. The Personnel Division shall notify the employee of the action taken. Copies shall be sent to the Department Director and also filed in employee's personnel file.

### **96.04 Effective Dates**

Step increases for all classifications except seasonal and part-time shall be made effective on the actual anniversary date (for pay purposes) or adjusted hire date.

### **96.05 New Employees**

A new employee shall be paid at the minimum step of his/her range. However, Department Directors shall have the authority to hire into step B or C as an inducement to attain qualified candidates. City Manager approval is required for all job offers above step C.

### **96.06 Reinstated Employees**

A reinstated employee shall be paid at a salary rate within the approved salary range for the position in which he/she is reinstated and shall be at a step comparable to the one previously held except as otherwise provided in appropriate collective bargaining agreements.

### **96.07 Interpretation**

The Personnel Division and Finance Director shall be responsible for interpreting the application of the plan to situations which are not specifically covered by this regulation, using the principles expressed herein as a policy guide.

## **CHAPTER 97 - POSITION CLASSIFICATION PLAN**

### **97.01 Purpose**

All City positions shall be classified in accordance with an established plan that shall provide that any and all positions whose duties, responsibilities, and necessary qualifications are sufficiently alike shall be allocated to a position with a title which shall be descriptive of the duties performed and within a salary range which will compensate each employee assigned to the position on a like basis.

### **97.02 Responsibility for Administration**

The Secretary of the Civil Service Commission shall be responsible for administering the classification plan.

### **97.03 Promotions and Demotions**

Promotions and demotions shall be handled in accordance with the current Salary and Benefits Ordinance or applicable collective bargaining agreement.

### **97.04 Transfer**

A transfer is defined as a move from one department or division to another, when the employee retains the same pay range and same job title. Department Directors may transfer employees within their department. Transfers between departments require the City Managers approval.

A transferred employee shall retain all accumulated leave and other benefits.

### **97.05 Reclassifications**

Reclassifications will be handled in accordance with the current salary and benefits ordinance.

### **97.06 Temporary Reclassifications**

A. Temporary reclassifications will be handled in accordance with the current salary/benefits ordinance or applicable collective bargaining agreement.

### **97.07 Creation of New Positions**

The Department Director shall complete a position description covering the duties and responsibilities of each proposed position. The Department Director shall recommend the salary range of the proposed position. The Personnel Division shall prepare the position description and present the proposed position, after approval by the City Manager, to the Civil Service Commission for approval, if necessary.

After approval by the Civil Service Commission, (if necessary) the position will be presented to City Council for confirmation and amendment to the pay ordinance.

#### **97.08 Maintenance of Plan**

- A. Each time a vacancy occurs, the position description shall be reviewed by the Department Director and any changes sent to the Personnel Division for a review of the allocation of the position.
- B. Each time a department or division is reorganized, proposed position descriptions for all affected employees should be submitted to the Personnel Division for review.
- C. The Personnel Division may also require departments or employees to submit position descriptions if there is reason to believe that there has been a change in the duties and responsibilities of one or more positions.
- D. Each time a new position is established, a position description shall be written and incorporated in the existing plan. The position title shall be added to the schematic list of titles. Likewise, an abolished position shall be deleted from the classification plan by removing the position description and eliminating the position title from the schematic list of titles.

#### **97.09 Official Copy of the Position Classification Plan**

The Personnel Division shall be responsible for maintaining an official copy of the position classification plan. The official copy shall include a schematic list of position titles and job descriptions plus all amendments thereto.

#### **97.10 Amendments to the Plan**

Each time a new classified position is established or a current classified position abolished, the Civil Service Secretary shall submit for approval the findings and recommendations to the Civil Service Commission. Upon approval, these shall be submitted to the City Manager for approval and City Council for confirmation and amendment to the pay ordinance.

## **CHAPTER 98 - PAY AND BENEFITS ORDINANCES REVIEW**

### **98.01 Review Committee**

The City Manager shall appoint a salary ordinance review committee, which is headed by the Personnel Division, to annually review the Pay Range and Pay Policy and Benefits Ordinances and make necessary recommendations to the City Manager.

The salary matrix in the Pay Ordinance may be adjusted annually according to instructions from City Council through the City Manager.

## **CHAPTER 99 - SENIORITY**

### **99.01 General**

It shall be the policy of the City to hire and promote primarily upon the basis of merit and fitness, and not seniority. Seniority may be used to determine vacation schedules, promotions (in the case of equally qualified persons), etc.

## CHAPTER 100 -SEPARATION

### 100.01 Separation

There are several forms of separation from City employment.

- A. Resignation - Employees who resign and desire to leave the City in good standing should give a minimum of two weeks notice, otherwise they may not be considered for reinstatement or re-employment at a future date.

The City reserves the right to place a resigning employee on a paid leave of absence for any portion or all of the notice period. In this case, accrued paid leave time should first be used, with supervisor approval, during the notice period. Sick leave should not be used except in case of actual illness or injury.

- B. Retirement - Employees who qualify for retirement or who soon will qualify should coordinate all separation procedures with the Finance Department and Personnel Division.
- C. Reduction in Force - When it becomes necessary to reduce the workforce, rules of the Middletown Civil Service Commission shall be followed. Whenever possible a two-week notice will be given to employees whose jobs are being eliminated. Employees should coordinate separation pay and benefits with the Finance Department and Personnel Division.
- D. Termination - See Policies and Procedures Chapter 129.03.

## **CHAPTER 101 - DAMAGE OR LOSS OF PERSONAL PROPERTY**

### **101.01 Purpose**

An employee whose personal property is damaged or lost while performing his/her duty may be reimbursed for the cost of repair or replacement of the item, subject to the following limitations:

- a) Repair and replacement is limited to \$250;
- b) Employees are expected to exercise common sense regarding the value of the item and the risk or loss or damage, (e.g. an employee will not be reimbursed for a damaged Rolex watch or expensive clothing);
- c) No repair or replacement will be covered where the damage is the result of the employee's intentional acts or negligence; and
- d) No repair or replacement will be covered for items which are insured, or could reasonably be insured (except deductible).

### **101.02 Procedure**

All damage or loss of personal property shall be reported to the employee's supervisor as soon as it occurs or at the first available opportunity. The employee shall describe the item damaged or lost and the circumstances under which the incident occurred. The supervisor shall review the report, investigate the claim, and forward the report and the results of the investigation to the Department Director. It will be forwarded to the Law Director who will rule on the responsibility of the City. The claim will be sent to the Finance Director, who will notify the employee of the decision regarding the claim. The Finance Director shall pay only those claims that have been approved.

### **101.03 Fraudulent Claims**

Any intentional misrepresentation regarding the damage or loss of personal property will be grounds for disciplinary action including dismissal.

## **CHAPTER 102 - LIABILITY OF CITY EMPLOYEES FOR DAMAGES TO CITY OWNED PROPERTY**

### **102.01 Liability**

City employees generally are protected for their negligence in the operation of City-owned vehicles or equipment so long as their acts were not intentional or malicious and were in the scope of their employment. However, the employee may be liable to the City for negligently caused damages to City-owned vehicles and equipment.

### **102.02 Insurance**

The City maintains liability insurance which protects the City and the operator of a City vehicle from damage claims by persons injured or damaged by a City driver's negligence. This, however, does not relieve a City driver from his personal liability for damage to City vehicles or equipment.

### **102.03 Negligence**

An employee, determined to be negligent, resulting in damage to City property, shall be held financially accountable to the City for the cost of repair or replacement, and may be subject to disciplinary action.

### **102.04 Payment**

The City may receive restitution for the cost of repair or replacement of City property by payroll deduction, provided the employee agrees to said payroll deduction within a reasonable time frame for payment as determined by the City Treasurer and Finance Director. If the employee declines to pay by payroll deduction, the City reserves the right to collect from the employee by legal process.

## **CHAPTER 103 - ANTI-NEPOTISM**

### **103.01 Appointments**

No person holding any position in the City of Middletown shall recommend, appoint, or vote for the appointment of, or apply any influence for the appointment of his or her father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law, including step-relationships to any position within the City. No appointee shall accept or be allowed to retain such employment. This policy also applies to non-married domestic partnerships.

### **103.02 Promotion/Transfer/Re-Assignment**

Any employee, including current management employees, who has a family member working for the City may be promoted, transferred or reassigned into a new position status within the City, provided:

- 1) The final promotional, transfer, reassignment, or hiring decision is not influenced by the presence of a family member in the City work force;
- 2) The employee family member has not been involved in the selection or decision process;
- 3) The Department Director documents to the City Manager and the personnel file of the employee that the family member is the best-qualified employee for the position;
- 4) The City Manager, after consulting with the senior staff, makes a specific finding that in those cases where the position to which the employee has applied for promotion involves handling sensitive or confidential information, the disclosure of which to an employee within the same or another department or division would create disciplinary, morale or other problems for the City, consideration has been given by the promoting authority to the potential problems caused by the promotion of that employee to the position and that those potential problems have been minimized to a level of acceptable risk;

- 5) The Department Director provides reasonable documented assurance to the City Manager and the personnel file of the promoted employee that any potential for favoritism, discrimination and conflicts of interest have been eliminated.

Nothing in this Chapter shall be interpreted in such a way as to prevent or discourage current employees from seeking career advancement or from seeking promotions.

### **103.03 Volunteers**

Uncompensated volunteers are exempt from the policies of this section.

## **CHAPTER 104 - PROHIBITION OF POLITICAL ACTIVITY**

### **104.01 Policy**

No officer or employee in the classified service:

- a) shall directly or indirectly, orally or by letter, solicit or receive, or be in any manner concerned in soliciting or receiving any assessment, subscription, or contribution for any political party or for any candidate for public office; nor
- b) shall solicit directly or indirectly, orally or by letter, or be in any manner concerned in soliciting any such assessment, contribution, or payment from any officer or employee in the classified service; nor
- c) be an officer in any political organization or take part in politics other than to vote as he/she pleases and to freely express her/his political opinions.

### **104.02 Prohibited Activities**

Classified employees may not take part in partisan politics and City Council elections except to vote and to express freely their political opinions. Political activity and politics refer to partisan activities, campaigns and elections involving primaries, partisan ballots or partisan candidates. The following activities are expressly prohibited:

- a) Candidacy for public office in a partisan election.
- b) Candidacy for public office in a non-partisan general election if the nomination to candidacy was obtained in a partisan primary or through the circulation of nominating petitions identified with a political party.
- c) Filing of petitions meeting statutory requirements for partisan candidacy to elective office.
- d) Circulation of official nominating petitions for any candidate participating in a partisan election.
- e) Service in an elected or appointed office in any partisan political organization.

- f) Acceptance of a party-sponsored appointment to any office normally filled by partisan election.
- g) Campaigning by writing for publications, by distributing political material, or by writing or making speeches on behalf of a candidate for partisan elective office, when such activities are directed toward party success.
- h) Solicitation of the sale or actual sale of political party tickets.
- i) Partisan activities at the election polls, such as solicitation of votes for other than non-partisan candidates and non-partisan issues.
- j) Service as a witness or challenger for any party or partisan committee.
- k) Participation in political caucuses of a partisan nature.
- l) Participation in a political action committee which supports partisan activity.
- m) Service in an appointed or elected position when such position is subordinate to or in any way a check upon a position concurrently occupied by a classified or unclassified employee or when it is physically impossible for one person to discharge the duties of both positions or if some specified constitutional or statutory bar exists prohibiting a person from serving both positions.
- n) Financial contribution, either monetarily or in-kind, to any local or state, partisan candidate or organization funding a local or state candidate.
- o) Solicitation, either directly or indirectly of any assessment, contribution or subscription, either monetary or in-kind for any political party or political candidate.

### **104.03 Permitted Activities**

Employees, of course, are citizens and are encouraged to vote in all elections without restriction. Bond issues, School Board elections, initiations and referendums are considered nonpolitical and do not fall within the area of restricted activities. While support of judicial candidates at the partisan primary level

is prohibited, participation at the non-partisan general election level is permitted. The following are examples of permitted activities:

- a) Registration and voting.
- b) Expression of opinions, either oral or written.
- c) Voluntary financial contributions to political candidates or organizations, as long as (1) they are non-partisan, (2) the organization does not fund local or state candidates in Ohio, (3) the candidates are not local or state candidates in Ohio.
- d) Circulation of non-partisan petitions or petitions stating views on legislation.
- e) Attendance at political rallies.
- f) Signing nominating petitions in support of individuals.
- g) Display of political materials in the employee's home or on the employee's property.
- h) Wearing of political badges or buttons or the display of political stickers on private vehicles.

#### **104.04 Penalties**

Employees violating any of the above regulations will be subject to appropriate disciplinary action.

#### **104.05 Unclassified Employees**

Employees in the unclassified service who serve at the pleasure of the appointing authority and are not subject to competitive examination are not prohibited from engaging in political activities except that these employees shall not be candidates, or otherwise participate in City Council elections, other than to vote.

## **CHAPTER 105 - VOTING BY CITY EMPLOYEES**

### **105.01 Polls**

All City employees are encouraged to register and vote in all National, State, local and special elections for the candidates and issues of their choice.

### **105.02 Voting on City Time Prohibited**

Employees can cast their votes in elections before or after working hours, unless otherwise specified in a collective bargaining agreement. With permission of his or her supervisor, an employee may work before or after working hours or at lunchtime to make up working time used for voting.

### **105.03 Exceptions**

If unusual circumstances make it impossible for an employee to vote before or after working hours, the Department Director and/or Division Manager may, in their sole discretion, grant permission to vote on City time not to exceed one (1) hour.

## **CHAPTER 106 ETHICS AND CONFLICT OF INTEREST**

### **106.01 Purpose**

The purpose of this regulation is to provide a general policy concerning ethical conduct, especially in acquiring interest in property or engaging in providing services which may result in a conflict with an employee's City duties and responsibilities, consistent with city charter and relevant federal and state law.

### **106.02 Ethics**

It is essential that the elected officials, the management and employees of Middletown deal completely, honestly and uprightly with each other and with the public. Inappropriate means will never justify desirable ends in the public service. Ethical behavior is required of all public servants. An employee shall not:

- a) Either disclose or use confidential information in performing his duties, for private gain.
- b) Use his/her official position directly or indirectly to secure special privileges, or other advantages.
- c) Accept outside employment which would impair his/her judgment in performance of his/her city duties.
- d) Accept any loans where the acceptance of such loans which would impair his/her judgment in the performance of his/her City duties.
- e) Accept any gifts, tips, presents, fees, or emoluments for rendering official services.
- f) Use, authorize the use, or influence of his/her office or employment to secure anything of value or the promise or offer of anything of value that is of such a character as to manifest a substantial and improper influence upon him or her with respect to his/her duties.
- g) No employee shall solicit or accept anything of substantial value that is of such a character as to manifest an improper influence upon him/her with respect to his or her duties. Anything of substantial value manifests an improper influence if it is from any party that is interested in matters

before, regulated by, doing business with the city or seeking to do business with the City. "Anything of substantial value" includes but is not limited to: free travel, meals or lodging (unless provided as reimbursement in connection with conferences, seminars or similar events related to official duties), discounts on merchandise or services, tickets to sporting events or golf outings, etc. "Anything of Value" does not include promotional items such as t-shirts, pens calendars or other items of nominal value, provided they are accepted only occasionally.

- h) Receive any compensation or assistance in a transaction involving the city.
- i) Accept, solicit or use his position to receive a promise of future employment or any other type of compensation from any party that is regulated by, doing business with, seeking to do business with, or otherwise interested in matters before the City, unless the employee is able to withdraw completely from consideration of any matter involving the party from whom he is seeking or has accepted employment outside.
- j) Maintain a conflict of interest while performing his city duties.
- k) Induce others to violate these policies.

### **106.03 City Business with City Employees**

Article III, Section 18 of the Charter of the City of Middletown states that no employee may be interested in the profits or emoluments of any contract, job, work or service for the City.

### **106.04 Employment**

- (1) The Ohio Ethics Law and related statutes do not prohibit public officials and employees from engaging in private outside employment or business activities provided that no conflict of interest exists between the private interests and public duties of the public official or employee and there is no misuse of the public office or employment of the official or employee, as described below;
- (2) A City employee is prohibited from engaging in private outside employment or business activity with parties that are interested in matters before, regulated by, or doing or seeking to do business with the City unless it is determined

by his Department Head that he is able to withdraw, as a City employee, from consideration of matters that affect the interests of the party with which he desires to engage in private outside employment or business activity;

- (3) The Ohio Ethics Law prohibits a City employee who engages in private outside employment or business activity from: (a) using City time, facilities, personnel, or resources in conducting a private business or while engaging in private outside employment including conducting demonstrations for clients using City equipment; (b) using his official title or identification on private business cards or other written materials or appearing in uniform while soliciting business or conducting demonstrations for clients; (c) using his relationship with other City officials and employees to secure a favorable decision or action by the other officials or employees regarding his private interests; (d) discussing, deliberating or voting on any matter involving his private business, including recommending his outside employer's or business's services to the City; (e) receiving fees for providing services rendered on projects that he has recommended in his official capacity; (f) participating in decisions or recommendations regarding his competitors; and (g) using his City position or authority in any other way to secure a benefit for his outside employer or private business.
  
- (4) It is absolutely necessary that an employee give priority to his job with the City. If outside work is accepted, it shall not be undertaken without the advance knowledge of the appropriate supervisors and the Department Director. Any failure to report for duty because of outside work may result in disciplinary action.

#### **106.05 Department Directors/Division Managers**

Department Directors or Division Managers shall determine the appropriateness of any of their subordinates outside employment and may establish restrictions. All employees will report any outside employment to their Department Director or Division Manager for approval. This employment information must be retained by the supervisor as it may be needed in injury or sick leave claim decisions.

#### **106.06 Use of Information for Personal Gain**

No employee shall use information gained while in the employ of the City to acquire directly or indirectly, interest in real estate or business enterprises, where such interest would or may bring financial gain to the employee.

#### **106.07 Interest in Property**

No employee in any City department exercising any authority over any project which the City may be engaged in shall voluntarily acquire any direct or indirect interest in property in such areas, except for use as a personal residence. Any employee who presently owns or controls or in the future involuntarily acquires any such interest, shall immediately disclose interest to the City Manager, such employee shall not participate in any action by the City affecting the program, unless the City Council shall determine that the participation of such employee would not be contrary to the public interest.

#### **106.08 Violation**

Any employee who shall violate this regulation shall be subject to disciplinary action, including termination.

## **CHAPTER 107 - SOLICITATION OF FUNDS**

### **107.01 Activities Prohibited**

Solicitation of funds by City employees or their agents by telephone or in person to businesses and persons not employed by the City of Middletown is hereby prohibited if the funds are for the benefit of City employees and:

Such solicitation is done by employees on City time.

The person soliciting funds is wearing a City uniform.

If there is any reference to the City of Middletown or to the fact that the beneficiary is a City employee or a group of City employees.

### **107.02 Exceptions**

Exceptions may be granted for various activities of City sanctioned groups by the City Manager or his/her designee. However, solicitation by employees must be conducted during off-duty hours.

### **107.03 Violations**

This policy applies to all City employees. Any employee who shall violate this policy shall be subject to disciplinary action including termination.

## **CHAPTER 108 - WHISTLE BLOWING**

**108.01** If an employee becomes aware in the course of their employment of (a) a violation of any state or federal statute or any local ordinance or regulation that the City has authority to correct, or (b) a violation by a fellow employee of any state or federal statute or any local ordinance or regulation, or any work rule or City policy, and the employee reasonably believes that the violation either is a criminal offense that is likely to cause an imminent risk of physical harm to persons or a hazard to public safety or is a felony, the employee shall orally notify his/her supervisor or other member of management and shall then file a written report describing the violation.

**108.02** No employee shall be disciplined or be subject to any adverse employment action for making any report under 108.01, unless such report is made without a reasonable faith effort to determine the accuracy of the information reported.

## **CHAPTER 109 -CHAIN OF COMMAND**

### **109.01 Chain of Command Defined**

The chain of command is the vertical channel through which the powers of command, direction, and decision pass. Each employee has an immediate supervisor within the organization.

### **109.02 Communications**

All communications pertaining to the operation of the City of Middletown or its departments and divisions shall follow the vertical path of the chain of command except as otherwise provided in these policies. All employees will notify their immediate supervisor if they wish to discuss City business with anyone in the chain of command, including City Council members.

### **109.03 Criticism**

No employee of the City of Middletown will publicly criticize or ridicule instructions, orders, or directions they have received or make statements that undermine the effectiveness of the organization.

### **109.04 Rumors**

No employee will make any statement about another employee with reckless disregard for the truth or falsity of the statement. Any employee found in violation of this policy shall be subject to disciplinary action.

## **CHAPTER 110 -REPORTING CHANGES IN PERSONAL STATUS**

### **110.01 Purpose**

Accurate reporting of changes in personal status is important for several reasons, including compliance with Federal and Ohio labor regulations, injury status, and to assure employees of all their benefits.

### **110.02 Reporting**

Personnel records are maintained by the Personnel Division. The following changes should be reported to the Personnel Division:

- a. Address and telephone number
- b. Legal name
- c. Marital status
- d. Birth or adoption of a dependent
- e. Life insurance beneficiary changes
- f. Emergency contact information

## **CHAPTER 111 -IDENTIFICATION CARDS**

### **111.01 Use of Card**

All City employees shall be issued an identification card. The identification card should be used as a means of identification to the general public for purposes of performing City business. These cards shall be updated every four years, with an expiration date stated on the card. Issuance of identification cards shall be coordinated through the Personnel Division.

## **CHAPTER 112 -HARASSMENT POLICY**

### **112.01 Definition**

Harassment is defined as unwelcome conduct that has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment. Harassment based on an individual's race, ethnicity, sex, age, disability or religion, is unlawful. A supervisor, co-worker, or even a non-employee such as a vendor or customer can create a hostile environment.

Sexual Harassment is a type of unlawful harassment. It includes unwelcome sexual advances, requests for sexual favors, and sexual comments or gestures that have the effect of creating a hostile or offensive working environment. Sexual Harassment also includes basing employment decisions on the submission to or rejection of sexual advances.

### **112.02 Policy**

The City will not tolerate harassment based on an individual's race, ethnicity, sex, age, disability or religion. All employees are prohibited from engaging in the unlawful harassment of any other employee or other person in the course of their employment. All employees who think they have been subjected to unlawful harassment or who have observed another employee engaging in unlawful harassment should immediately report the incident by utilizing the complaint procedure outlined below. The City will not tolerate retaliation against any employee who has complained of or reported an instance of harassment, or who has participated in a harassment investigation.

### **112.03 Complaint Procedure**

1. Any employee who believes he or she has been the subject of harassment should report the alleged act immediately to their immediate supervisor, Division Manager or Department Director. The employee may report the alleged harassment to the Personnel Division, the Law Department or any other supervisor in the City instead of the previous listed personnel.
2. A supervisor is required to report cases of alleged harassment to their Department Director, who in turn, is

required to report the matter to the Law Department. Such reports are to be made regardless of how knowledge of the case was acquired.

3. In any case in which the supervisor is witness to or confronted with a situation of harassment by an employee who is under their supervision, the supervisor shall immediately notify the offending party that harassment is not appropriate and will not be tolerated. Ultimate disciplinary action if any, will await completion of an investigation.
4. If a complaint involves a manager or supervisor, the complaint shall be filed directly with the Personnel Division, the Law Department, or the City Manager.
5. The Law Department shall investigate and submit to the City Manager a report setting forth the facts of the case and a recommendation for action.
6. Upon receipt of the Report/Recommendation of the Law Department, the City Manager, or his designee, shall conduct a pre-disciplinary hearing.
7. The results of the investigation and the nature of the disciplinary action, if any, will be communicated by the City Manager's Office to both the complainant and the offender as well as the affected Department Director. If, after a reasonable length of time, the employee feels inadequate action is being taken to resolve the complaint, or if there is continued harassment, the employee shall contact the Law Department or the City Manager's office.
8. All complaints will be investigated in a timely manner. Investigation of the complaint will normally include conferring with the parties involved and any named or apparent witnesses. Any employee involved in the investigation should not discuss the subject outside the investigation.

#### **112.04 Retaliation**

The City will not tolerate retaliation against any employee who reports or files a complaint of harassment or participates in an investigation of harassment.

#### **112.05 Disciplinary Actions**

An employee who harasses another employee, condones such harassment, or intimidates, coerces, or retaliates against an employee for reporting or participating in the investigation of a harassment claim, may be subject to the full range of disciplinary action, including termination. Any person who is disciplined as a result of the investigating action may appeal such discipline through the normal grievance procedure.

#### **112.06 Supervisor Responsibility**

All City supervisory personnel are responsible for the reporting of any and all forms of harassment of which they become aware. If the harassment involves a manager or supervisor, the complaint shall be filed directly with the Personnel Division, the City Manager, or the Law Director. Otherwise, the Complaint should be filed with the Department Director. Such reports are to be made regardless of how knowledge of the case was acquired.

## **CHAPTER 113 - EQUAL EMPLOYMENT OPPORTUNITY**

### **113.01 Policy**

The City of Middletown is an equal opportunity employer and does not discriminate on the basis of race, color, religion, national origin, creed, sex, age, marital status, political affiliation, veteran status, or disability in the hiring, placement, training, and promotion of its employees.

### **113.02 Purpose**

In accordance with the requirements and objectives set forth in the Civil Rights Act of 1964, the Equal Employment Opportunity Act of 1972, the Americans with Disabilities Act of 1990, the President's Executive Order 11246, and other applicable laws and regulations, the City actively promotes Equal Opportunity of Employment in the areas mentioned above.

### **113.03 Compliance**

Responsibility for ensuring compliance and continued implementation of the City's policy of equal employment opportunity shall be assigned to the Personnel Division.

### **113.04 Recruitment**

It is the policy of the City of Middletown to give fair and equitable consideration to all qualified applicants for vacancies in all job classifications on the basis of individual qualifications, potential, and job performance.

### **113.05 Placement**

All positions, descriptions and corresponding statements of minimum qualifications shall relate directly to position duties and responsibilities. Such qualifications will be reviewed periodically to ensure their accuracy.

### **113.06 Training and Personnel Status Change**

All training and educational programs conducted on the job will be reviewed periodically to be certain that all personnel are given equal opportunity to participate in these programs. In

addition, all City supported or sponsored training seminars for supervisors shall be equally available for all supervisors.

All eligible and qualified City employees shall receive consideration for vacancies and training in all departments.

## **CHAPTER 114 - DRUG-FREE WORKPLACE**

### **114.01 Purpose**

This provision details the City's Drug Free Workplace policy for ALL employees and conforms with the federal Government's final rule on a drug free workplace. Employee compliance with this policy will help ensure Middletown is a safe place to work for all of our employees and citizens.

### **114.02 Unlawful Use of a Controlled Substance**

The unlawful, manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited and will result in discipline up to and including termination. Any illegal substance will be turned over to the appropriate law enforcement agency and may result in criminal prosecution. The sale, distribution, or possession with intent to distribute a controlled substance resulting in a criminal conviction will be cause for immediate termination.

### **114.03 Drug Awareness Education Program**

All new employees will participate in a Drug Awareness Education Program as soon as possible after they are hired, such as during the new employee orientation program. This may be a general program for all City employees, or a specific program such as the one required for employees with commercial driver licenses (CDL). All City employees will participate in a similar drug awareness program periodically while a City employee. This later training will be accomplished via City or department training programs.

### **114.04 Drug-Free Workplace Letter of Understanding**

All employees will acknowledge their understanding and commitment to maintain a drug-free workplace by signing a letter of understanding after participating in their first Drug Awareness Education Program. (Reference Form 2.27.4)

### **114.05 Reporting to Work Drug-Free**

An employee must report to work free from drugs or other job impairing substances. Reporting to work under the influence of a drug not medically authorized or any other substance which impairs job performance (including prescription drugs) or poses a hazard to the safety and welfare of the employee, the public or other employees is strictly prohibited and will result in discipline up to, and including, termination.

#### **114.06 Prescription Drugs/Controlled Substance**

An employee is allowed to use a drug or controlled substance (except for methadone) when taken as prescribed by a licensed medical practitioner who is familiar with the employee's medical history and assigned duties, and so long as the prescribed medication does not interfere with the employee's ability to safely perform his/her duties. It is the employee's responsibility to prove through clear and convincing evidence that his/her use of the controlled substance was as prescribed by the licensed medical practitioner.

#### **114.07 Controlled Substance Examples**

A controlled substance includes, but is not limited to, the following:

- a) Marijuana
- b) Cocaine
- c) Opiates (including heroin, morphine, and codeine)
- d) Phencyclidine (PCP)
- e) Amphetamines

#### **114.08 Notification of a Criminal Drug Statue Conviction**

Any City employee shall notify his/her supervisor, in writing, of any criminal drug statute conviction of a violation occurring in the workplace no later than five days after such conviction. In any City department directly receiving federal funds, the Department Director shall notify the appropriate state and federal agencies upon receipt of notice of any employee convicted of a violation as described above.

#### **114.09 Professional Services for Chemical Dependency**

Because of its commitment to its employee's welfare, the City of Middletown has a drug-free awareness program through the Employee Assistance Program (EAP) which can provide access

to professional services to aid the employee who has a chemical dependency problem. The EAP maintains confidentiality of its contacts and employees are encouraged to utilize the program.

## **CHAPTER 115 -DISCIPLINE POLICY AND PROCEDURES**

### **115.01 Purpose**

The purpose of this regulation is to establish standard policies and procedures for all employees and to establish responsibility for discipline, except as a collective bargaining agreement supersedes the policy. All discipline recommendations will be coordinated with the Personnel Division to ensure fairness and impartiality.

### **115.02 Responsibility for Discipline**

Supervisors are responsible for maintaining the proper discipline of all employees under their supervision and to take such action as is necessary to properly carry out this policy. All suspensions, demotions, and terminations shall be implemented by the City Manager as the appointing authority.

### **115.03 Reasons for Disciplinary Action**

An employee may be disciplined for unsatisfactory performance (See 94.02), incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, neglect of duty, conviction of criminal charges, misfeasance, malfeasance, or nonfeasance, violation of the Policies and Procedures of the City or of the Civil Service Commission, discourteous treatment of the public or other employees, failure to pay just debts against the City, any failure of good behavior, or an accumulation of minor infractions.

The following may be considered in determining appropriate discipline:

- a) Seriousness of incident (infraction)
- b) Circumstances surrounding the incident (infraction)
- c) Employee's past disciplinary record
- d) Employee's past work performance
- e) Overall negative impact of incident on the organization
- f) Probability of future similar infractions
- g) Other pertinent factors

### **115.04 Degrees of Discipline**

The City subscribes to the basic tenets of supervisors documenting and administering progressive, corrective discipline. The standards set forth herein are designed to be guidelines and the City reserves the right to employ an appropriate level of discipline in each and every case.

The following types of disciplinary action may be administered, in accordance with the provisions of this regulation and appropriate collective bargaining agreements:

- 1) Verbal Reprimand. This is a reprimand to discuss the cause of an infraction/incident, what was done improperly, and counseling to hopefully prevent further incidents.
- 2) Written Reprimand. This disciplinary action is designed to address violations of minor nature, such as inability to work harmoniously with other employees and infractions of minor safety rules.
- 3) Suspension Without Pay. This disciplinary action should be used for repeat violations of a minor and/or intermediate nature, for significant violations, such as abuse of leave, fighting or unauthorized use of City property, and for initial infractions of important or major safety rules. Suspensions shall be for no less than one day (eight hours). Three-day (24 hours) suspensions and ten-day suspensions should follow principles of corrective discipline. A ten (10) day suspension would typically be followed by dismissal. No exempt employee, as defined in Salary Ordinance Exhibit B, shall be suspended without pay for a period of less than five (5) workdays.
- 4) Demotion to Lower Classification. This disciplinary action is most appropriate when the employee has demonstrated an inability to perform the functions of the promotional position occupied. Failure to pass probation in a promotional position is not a disciplinary event.
- 5) Termination. This disciplinary action is appropriate for chronic violations of an intermediate nature, multiple violations of a significant nature, infractions of major safety rules, initial violations of a major nature, such as failure to report to work for three consecutive days, sexual harassment, theft of City property, or reporting for work under the influence of drugs or alcohol, and in circumstances

where progressive discipline has failed to correct the behavior requiring discipline.

#### **115.05 Disciplinary Process**

Disciplinary action may be started at the immediate supervisory level. Written reprimands are subject to the review of the Department Director at such Director's discretion. Department Directors recommend disciplinary action to the City Manager (suspension without pay, demotion to a lower classification and termination of employees). Serious or questionable disciplinary cases should be discussed with the Law Department prior to making a recommendation. In the case of Health Department employees, Board of Health approval is required.

#### **115.06 Pre-Disciplinary Hearing**

All suspensions without pay, demotions or terminations of any full-time non-probationary employee shall be subject to a pre-disciplinary hearing before the Department Director except as otherwise provided by a collective bargaining agreement. This hearing shall occur prior to the Department Director recommending discipline to the City Manager. The purpose of the hearing shall be to assure that the employee has had an opportunity to explain his/her position and assure that a basis exists for discipline to be imposed. The hearing shall be informal. However, the employee shall have the right to be represented at the meeting. The Department Director may request that Law Director or his/her designee be present. The Department Director may continue the meeting if he believes additional investigation is necessary. The Department Director shall complete a Pre-Disciplinary Report on the form provided (Form#2.28.6). Within the five (5) days of the meeting, the Department Director shall either 1) recommend disciplinary action; 2) impose a written or oral reprimand; or 3) determine no disciplinary action is warranted. If a suspension, demotion or termination is recommended, the Department Director must submit a written recommendation to the City Manager with the Pre-Disciplinary Report. The City Manager may impose the disciplinary action he/she deems appropriate. A copy of all disciplinary actions shall be sent to the Personnel Division for inclusion in the employee's personnel file.

#### **115.07 Appeal**

Disciplinary action of suspension, demotion, or termination may be appealed by full-time non-probationary employees through the grievance procedure as outlined in Policy and Procedure 116.02. Employees may also have the right to appeal the City Manager's decision to the Civil Service Commission under state law. The civil service appeal must be in writing and filed with the Secretary of the Civil Service Commission within ten days of receipt of the disciplinary order.

#### **115.08 Expungement**

An employee may request the expungement (the removal) of a disciplinary action from his/her personnel file, as follows:

- (a) written reprimand, after 18 months,
- (b) all other disciplines, after 3 years.

All written requests regarding written reprimands shall be determined by the appropriate Department Director. All other requests shall be determined by the City Manager upon the recommendation of the Department Director.

#### **115.09 Rebuttal**

An employee may, within ten (10) days of a written reprimand being placed in his/her file, submit a written rebuttal to be included in his/her file not to exceed one page.

## **CHAPTER 116 - GRIEVANCE PROCEDURE**

### **116.01 Grievance Purpose**

A grievance is a dispute as to the interpretation or application of the City Policies and Procedures, departmental work rules, or management practices. The purpose of a grievance procedure is to promote good employee relations by minimizing and adjusting appropriate grievances, if left unnoticed or unattended, that can have very serious results both to employee attitudes and efficiency, and ultimately City services. This procedure is designed for use by non-organized City employees except as provided in Chapter 115.07 (appeal of disciplinary actions). (Please refer to appropriate collective bargaining agreements for unionized employee grievances.) Employees who wish to appeal disciplinary action that is otherwise appealable to the Civil Service Commission may appeal using either this grievance procedure or the Civil Service appeal process, but not both.

### **116.02 Grievance Procedure**

The employee and his/her immediate supervisor should have open dialogue and discussion. Verbal requests and disagreements should be worked out in the normal course of business. The grievance procedure begins when the conflict cannot be resolved.

Step 1: Time limitations specified in the procedure may be extended with agreement of both parties. The grievance shall be reduced to writing (Form 2.29.3), signed by the aggrieved employee and presented to the employee's Division Manager no later than five (5) workdays after the occurrence of the facts upon which the grievance is based. Copies will be given to the employee's immediate supervisor.

The Division Manager should arrange a meeting with the employee within five (5) working days and return a decision within three (3) working days of the meeting with copies sent to employee and immediate supervisor. Within two (2) working days after the receipt of an unacceptable decision rendered at this step, or within four (4) working days after proper submission to the Division Manager without response from the Division Manager, the grievance shall be

considered resolved if the aggrieved employee does not refer the grievance in writing to Step 2.

Step 2: If the matter remains unresolved, the grievance shall be presented in writing to the Department Director. Every reasonable effort shall be made by the Department Director to schedule a meeting within five (5) working days. A decision shall be made within ten (10) working days of the meeting with copies sent to the employee, immediate supervisor and Division Manager.

If the aggrieved employee does not refer the grievance in writing to Step 3 within five (5) working days upon receipt of an unacceptable decision rendered at this step, it shall be considered resolved.

Step 3: If the matter is not resolved by the Department Director in the preceding step, the grievance together with all correspondence shall be submitted by the grievant to the City Manager or the City Manager's designee. A meeting shall be scheduled within ten (10) working days after receipt of the grievance. A decision shall be made within ten (10) working days of the meeting. Copies of the final disposition will be sent to all parties concerned.

The decision of the City Manager or the City Manager's designee is final.

## **CHAPTER 117 - HOURS OF WORK AND OVERTIME**

### **117.01 Work Week**

The work week for the City of Middletown shall begin on Sunday at 12:00 a.m. and shall end at 12:00 a.m. on the following Sunday, (except as otherwise established by individual Departments or Divisions) and shall consist of one hundred and sixty-eight (168) consecutive hours. The workweek for employees working 24-hour shifts will be recognized in accordance with the appropriate collective bargaining agreement.

### **117.02 Overtime**

The City is required to comply with the provision of The Fair Labor Standards Act (FLSA) as amended and the Department of Labor regulations issued thereunder pertaining to compensation for overtime work. Department Directors and Supervisors shall organize employee work schedules to minimize the need for overtime work. However, when circumstances require overtime work, employees will be compensated for that work as provided in this section.

Waivers prohibited - A verbal or written agreement to waive any overtime pay shall not be entered into by any non-exempt employee and the City. A policy statement by the City Manager, Department Director, or any other City official that overtime work will not be permitted without prior approval will not impair an employee's right to compensation for overtime worked.

Joint employment - City employees occupying positions shall not serve as a volunteer for the same job in which he/she is employed full-time by the City. This section shall not preclude Public Safety officers from accepting special detail assignments with second employers pursuant to procedures established by the Division of Police.

### **117.03 Compensatory Time Off**

The decision as to how compensatory time off shall be granted lies with the Department Director or Division Manager, consistent with Section 3 of the current benefits ordinance. It may be added to regular vacation periods. Compensatory time can only be granted to non-exempt, non-union employees where an agreement exists between the employee and the City.

#### **117.04 Exempt Employees**

Exempt employees, not subject to the Fair Labor Standards Act, as amended are listed in Exhibit "A" of the current benefits ordinance.

The "exempt" employees are not entitled to overtime benefits and do not receive compensatory time off. These employees are expected to work a minimum of two thousand and eighty (2,080) hours per year, including paid leave. The assumption is that "exempt" employees work eight (8) hours per day, Monday through Friday.

Recognizing that "exempt" employees attend meetings and perform other work during time outside these regular hours, these employees perform their 2,080 hours in a work year in a flexible manner. It is required that these employees be able to establish by the employee attendance record, kept by each department (Form 2.30.4), that the employee has, at any given time, a number of hours equivalent or greater than the proportionate share of 2,080 hours per year. The Finance Department shall review the attendance record forms in each department quarterly to ensure that all departments are in compliance with this regulation.

Nothing in the regulation is intended to reduce or limit the right of the Department Director from establishing the work schedules of his/her employees. However, Department Directors are expected to accept the standard of 2,080 hours per year and to manage their departmental work schedules accordingly.

All past practices and prior policies regarding "exempt" employees are hereby expressly abolished by this regulation.

## **CHAPTER 118 -LONGEVITY PAY**

### **118.01 Longevity Pay**

Longevity shall be paid at the rates established by the current Pay Policy and Benefits Ordinance or applicable collective bargaining agreement.

## **CHAPTER 119 - HOLIDAYS AND PERSONAL DAYS**

### **119.01 Holidays Observed and Personal Days**

Employees will be given holidays and personal days as described in the Pay Policy and Benefits Ordinance.

### **119.02 Day Celebrated**

If any of these holidays fall on a Saturday, the preceding Friday will be granted as a day off with pay in lieu of the actual holiday. If the holiday falls on a Sunday, the following Monday will be granted as a day off with pay in lieu of the actual holiday.

### **119.03 Consecutive Holidays**

In those instances when a weekend holiday is actually worked, an employee shall be compensated for the holiday work as stated in the current benefits ordinance, and, in such cases, the preceding Friday or following Monday of the holiday shall be treated as a regular work day, with compensation based upon whether the preceding or following work day next to the holiday was worked by the employee. If Christmas Eve falls on a Friday, the preceding Thursday and that Friday will be granted as a day off with pay. If Christmas falls on Monday, that Monday and the following Tuesday will be granted as days off with pay.

### **119.04 Loss of Holiday**

If an employee is off without pay and the absence is unexcused either the workday before or the workday after a holiday, that holiday pay is forfeited and the employee may be subject to disciplinary action. (An unexcused absence is an absence not covered by approved vacation, disciplinary suspension, accumulated sick leave, military leave or any other approved leaves with pay.)

### **119.05 Holiday During Vacation**

If a holiday falls during an employee's vacation period, it shall not be charged to vacation time, except where department or division policy is to grant additional vacation time in lieu of granting regular holidays off.

### **119.06 Birthday Holiday**

The employee birthday holiday is to be scheduled as a day off at the discretion of the Department Director at anytime throughout the calendar year. The birthday holiday is not subject to premium pay. New hires shall also schedule their birthday holiday as described above, regardless of the date of their actual birthday.

## **CHAPTER 120 - VACATION**

### **120.01 Vacation Year and Accrual**

The vacation year begins on January 1 of each year and ends on December 31. Vacation taken in any year is based upon vacation credit earned in the previous year. Employees on leave without pay for any reason exceeding two (2) consecutive weeks shall not accrue vacation benefits.

### **120.02 Vacation Credit**

A. All employees are entitled to vacation in accordance with the Pay and Benefits Ordinance or the applicable Collective Bargaining Agreement.

### **120.03 Scheduling**

Vacations shall be scheduled with the approval of the Department Director or Division Manager. In general, Department Director and Division Managers shall give as much consideration as possible to the employee's preference, while, at the same time, maintaining the staff necessary to meet operation requirements. Vacation must be scheduled in no less than half-day (four (4) hour) increments.

### **120.04 Vacation Carry-Over**

Vacation credit should be used by year-end. Any unused portion must be approved by the City Manager, in writing, in order to be deferred to the next year. Vacation credit not carried over will be lost at the end of the year.

### **120.05 Vacation Conversion from Accumulated Sick Leave**

With the approval of the Department Director, employees may convert sick leave credit to vacation on the following basis:

Over 280 Hours Sick Leave Credit: An employee with more than 280 sick leave hours credit may convert all those hours over 280 to vacation credit at the ratio of 24 sick leave hours for 8 vacation hours, provided that not more than 96 sick leave hours are so converted in any one vacation year, or:

Over 800 Hours Sick Leave Credit: An employee with more than 800 sick leave hours credit may convert all those hours

over 800 to vacation credit at the ratio of 8 sick leave hours for 8 vacation hours, provided that not more than 32 sick leave hours are so converted in any one vacation year.

The employee must have accumulated these hours prior to January 1 of the year in which these days are to be converted and must have sufficient hours at the time of conversion.

#### **120.06 Deferred Longevity Vacation Days**

Police Chief and Police Deputy Chief shall be able to accumulate and defer up to 10 longevity vacation days.

## **CHAPTER 121 -SICK LEAVE**

### **121.01 Sick Leave Eligibility and Accumulation**

All full-time employees, including probationary employees, shall be eligible for the provisions of this regulation unless covered by a contract with a collective bargaining unit. Each full-time employee shall be credited with 10 hours of sick leave per month. The hours of sick leave earned shall be credited to each employee on the first check date of every month. The accumulation of sick leave will be unlimited. Employees on leave without pay for any reason, exceeding two (2) consecutive weeks, shall not accrue sick leave benefits.

### **121.02 Approval of Usage**

The Department Director or other authorized official designated by the Department Director has authority to approve or deny the use of sick leave. Sick leave shall not be approved for unauthorized uses. The Department Director may, at his/her discretion, require a doctor's certificate of cause and/or a signed statement regarding the facts surrounding the reason for sick leave for any claim of sick leave.

### **121.03 Payment for Usage**

An employee may receive sick leave pay for a normal work period only. If an employee who works a 40-hour week is scheduled to work on a holiday and reports off sick, the employee will receive regular holiday pay -- no sick leave will be charged. Employees shall be charged for sick leave usage on a half hour basis of not less than one-half hour increments.

### **121.04 Authorized Uses of Sick Leave**

Sick leave credit may be used for the following:

- a) Sickness or off-duty injury to the employee, provided in the case of injury, it is not in connection with outside employment.
- b) On-the-job injury of the employee, the first five days off following the day of the injury unless the employee is hospitalized during these day.
- c) Quarantined because of contagious disease.

- d) Sickness or disability in the immediate family. The immediate family is the father, mother, sister, brother, husband, wife or child of the employee. Time off shall not exceed three days for any one illness of the family member without the written approval of the Department Director, except for medical leave cases covered by the FMLA policy.
- e) Death in the immediate family. The immediate family is defined as the employee's spouse, child or stepchild, grandchild, parent, stepparents, grandparent, brother, sister, parents or step-parents of spouse, and grandparents of spouse. An employee may utilize sick leave with the approval of the Department Director for participation in funeral services or arrangements not covered by Funeral Leave.
- f) Family leave as defined in the Family Medical Leave Act policy.

#### **121.05 Reporting Off Sick**

Each department may determine the appropriate time and procedure for reporting off sick, except that no department shall require more than 30 days notice for foreseeable sick leave. The City will not waive this notice requirement.

#### **121.06 Employee's Claim for Sick Leave**

The employee shall submit Form 2.34.6 in order to receive payment under the Sick Leave Provisions. For extended absences, payment may be approved at the discretion of the Department Director prior to submission of this form. The Sick Leave form must be completed upon return of the employee to work. Failure to complete the form shall result in the employee being determined to be on leave without pay and a deduction in the subsequent payroll period. Departments should attach the Sick Leave Form to the payroll voucher.

#### **121.07 Taking Sick Leave While on Vacation**

By submitting Form No. 2.34.7, Employee's Claim For Sick Leave During Vacation, an employee who becomes ill when on vacation may apply for payment of sick leave for the period of illness, provided a doctor's certificate is provided verifying the

illness. Approval shall be granted at the discretion of the Department Director.

#### **121.08 Conversion of Sick Leave for Vacation Credit**

Sick leave may be converted from sick leave to vacation credit with the approval of the Department Director in accordance with provisions of Policy and Procedure 120.05.

#### **121.09 Conversion of Sick Leave Credit at Separation**

Sick Leave may be converted from sick leave to compensation at separation with the approval of the Department Director in accordance with provisions of Policy and Procedure 133.05.

#### **121.10 Sick Leave Transfer**

(a) There is hereby created a sick leave bank. Any employee of the City with more than four hundred (400) hours of accumulated sick leave may transfer up to eighty (80) hours of sick leave into the sick leave bank during their tenure with the City by signing Sick Leave Transfer Contribution Form (located on the intranet). Upon such transfer, the employee forfeits all rights or claims to use, convert or cash-in such sick leave, and the amount transferred shall be deducted from the employee's sick leave balance by the Finance Department. The balance of hours in the sick leave bank shall be maintained by the Personnel Division. The balance in the sick leave bank shall not be reduced below zero (0).

(b) Any employee, who 1) is required to be off from work because of personal illness, injury, quarantine or sickness or disability of a child or a spouse, as set forth in Section 121.04 (a), (b), (c) or (d) of these policies and procedures, except that sickness and disabilities covered by 121.04 (d) are intended to include only the husband, wife or child of the employee for purposes of this policy, and 2) is presently without any sick leave may request a transfer of sick leave from the sick leave bank, on the Sick Leave Transfer Request Form (located on the intranet). The request shall be reviewed by the Personnel Division.

The request shall be granted if all of the following criteria are established:

1. the employee is suffering from a serious medical condition as that term is defined for purposes of the FMLA;
2. the employee has no sick leave balance;
3. the employee's lack of sick leave is due to either;
  - (a) tenure of less than one year with the City, or
  - (b) a continuous illness or injury to one's person or their spouse or child which caused the employee to use at least fifty percent (50%) of the sick leave they have accumulated in their last five (5) years with the City
4. the employee has exhausted all other available paid leave balances (e.g. vacation, etc); and
5. there is a balance of sick leave in the bank to be transferred

Prior to notifying the employee whether the request has been granted or denied, the Personnel Division shall notify the appropriate department director that the request has been filed. If the request is granted, the employee may have transferred to them up to eighty (80) hours of sick leave in accordance with the request. No employee shall have transferred to them more than one hundred and twenty (120) hours of sick leave under this policy. Upon return to work, the employee receiving the transfer of sick leave shall refund the sick leave transferred to them upon accumulating eight (80) hours of sick leave.

## **CHAPTER 122 - ON THE JOB INJURY**

### **122.01 Injury Investigation Report**

When an employee is injured on the job, an Injury Report (Form 2.35.1) must be prepared and forwarded to the Personnel Division. This report is to be completed in detail and submitted within five (5) days following the injury. Failure to submit this report within five (5) days following the injury may result in the denial of injury leave. Part I of the form is to be completed by the injured employee and Part II by the employee's supervisor. The supervisor signs the completed form and retains one copy for department or divisional use. The form is then forwarded to the Department Director for review and signature. The original form is then forwarded to the Personnel Division for review and signature.

### **122.02 Failure to Report**

All injuries should be reported at once and thoroughly investigated by the supervisor. Failure to report an injury may preclude an employee from eligibility for injury leave and may preclude approval by the Bureau of Workers' Compensation, and can result in disciplinary action against the employee for failure to comply with the above policy and procedure.

### **122.03 Lost Time Injuries (More than seven (7) calendar days)**

The employee or his/her supervisor should report all lost-time injuries at once to the Personnel Division. In addition, notification must be given when the employee returns to work.

### **122.04 Injury Leave**

The maximum injury leave for on-the-job injury shall be 120 workdays for non-union employees and per appropriate collective bargaining agreements for union employees. The first forty (40) hours whether consecutive or not, an employee is absent as the result of an on the job injury shall be charged to sick leave, unless the employee is hospitalized. If the employee is absent more than five (5) working days as a result of the on-the-job injury, the first five (5) days shall be returned to the employee's sick leave balance and counted as injury leave, after review by the Injury Leave Committee. Approval of a claim for compensation by the Bureau of Workers Compensation is not conclusive evidence of entitlement of injury leave.

## **122.05 Use of Injury Leave**

A claim for injury leave (Form 2.35.5) must be submitted to the Personnel Division within 3 workdays of the employee's use of leave. In the event the employee is hospitalized, the form must be submitted within 3 workdays from the date of the employee's release from the hospital. Failure to submit this form within three (3) workdays may result in denial of injury leave. A copy of the request must also be submitted to the employee's immediate supervisor. In each case of an alleged injury on the job, it is the responsibility of the supervisor to investigate the validity of the claim. This includes investigating whether the injury was actually sustained in the performance of the employee's duties.

All requests for injury leave submitted by non-organized employees shall be reviewed by an Injury Leave Committee unless an alternate procedure has been established by this employee's department or division and has been approved by the City Manager.

The committee shall be comprised of (1) the employee's department director; (2) a member of the Personnel Division; and (3) the Director of Law. In addition to the application, a doctor's statement of the nature of the injury and the period the employee will have to remain off work is required.

If the Injury Leave Committee questions the application of the employee, it may have the employee (at City expense) examined by a physician, psychiatrist, or psychologist, chosen by the City. The results of this examination will then be considered with other relevant information in determining whether or not the employee's application will be recommended for approval. The Injury Leave Committee shall make a recommendation to the City Manager for approval or rejection of the application.

## **122.06 Workers Compensation Claim Procedure For Injuries Requiring Medical Treatment**

Once it has been determined that the injury is job related, the following checklist of procedures must be used:

1. Injured employee reports injury to supervisor, and completes the Managed Care Organizations (MCO's) First Report of Injury

Form. (Send original to Personnel with injury report. Keep a copy in division file and give a copy to employee.) The First Report of Injury form should be sent to Personnel immediately.

2. Supervisor refers to MCO's Injury Packet for necessary paperwork and provides packet to injured employee.
3. Supervisor gives injured employee "Employee Identification Card." (This notifies the provider that the injured employee is part of the MCO's. This card should be presented to all physicians who are providing treatment for this injury.)
4. Supervisor has injured employee sign the Medical Release Form. (This will assist the MCO in receiving medical information from all sources including out-of-network providers.)
5. Supervisor directs injured employee to a network provider for treatment. (Injured employee takes the MCO's First Report of Injury Form, Medical Release Form, Treatment Report Form and Identification Card to the doctor.)
6. The City suggests that Excel Corporate Care, 4420 Grand Avenue, Middletown, be used as the primary treatment site, Monday thru Friday, 8 a.m. to 5 p.m., since treatment can be obtained within 45 minutes, or Middletown Regional Hospital Immediate Care in case of serious injury. Employees are free to choose their own physician for the first treatment, however, any further treatments must be provided by a "bureau certified" provider or the cost will be the responsibility of the employee.
7. Supervisor calls and reports injury to the MCO. (This number is available 24 hours a day, will assist with directing your injured employee to a medical provider, and takes only 3 - 5 minutes.)
8. If injury leave will be utilized, a Claim for Injury Leave (Form 2.55.5) must be submitted to the Personnel Division within 3 working days of the employee's use of leave. In the event the employee is hospitalized, the form must be submitted within 3 working days from the date of the employee's release from the hospital. A statement from the employee's attending physician must be attached that includes the nature of the injury, limitations regarding the employee's ability to perform duties and projected dates the employee will be able to return to full employment duties.

All completed forms shall be filed with the Personnel Division along with a copy of the Injury Investigation Report. The Personnel Division will obtain the necessary information from the physician and/or hospital and check all forms for accuracy and completeness. An official of the Personnel Division shall sign the claim forms as the City's authorized representative.

Copies of completed forms will be filed in the employee's personnel file.

All correspondence from the Bureau of Workers' Compensation pertaining to a claim shall be routed to the Personnel Division. Additional information needed in support of a claim will be coordinated by the Personnel Division.

#### **122.07 Off-The-Job Injuries**

Injuries incurred while not officially performing City job duties (but not in connection with any outside employment) may be charged to sick leave, but are not subject to the City's Workers' Compensation benefits.

#### **122.08 False Injury Claims**

All claims are subject to further investigation. Anyone filing a false claim, misrepresenting the facts in a claim, or not following the procedures as set forth above, will be subject to disciplinary action.

Suspected false claims should be reported to the Personnel Division or the Bureau of Workers' Compensation Fraud Line: 1 (800) 837-1554.

#### **122.09 Early-Return-to-Work-Policy**

Supervisors shall coordinate with the Personnel Division for the customizing of early return to work programs as an incentive for the injured employee to return to productive employment as soon as medically appropriate.

## CHAPTER 123 -LIGHT DUTY POLICY

### 123.01 Policy

The City recognizes that in particular circumstances of an employee's injury/illness, whether incurred or contracted on or off the job, he/she is not able to return to work in a full duty work status; but is capable of performing certain job assignments, which constitute a limited portion of one or more job classifications. These assignments are referred to herein as "light duty". Such assignments are temporary, and are not to be considered an accommodation to a permanent illness or injury. It serves the mutual benefit, of the employee and the City, to provide a temporary "light duty" status. Temporary is defined herein as no less than 5 consecutive calendar days and no more than 180 consecutive calendar days.

This policy allows the City of Middletown to comply with the BWC Managed Care Organization policy that requires us to work with our primary health care provider to return an injured or ill employee to a modified-duty/light duty position, tailored to an injured employee's condition until they regain full capacity to return to full duty. If the disabled employee refuses to return to work, BWC compensation will cease.

### 123.02 Application for "Light Duty" Status

The supervisor of a full-time employee who is off work due to an injury or illness, or the injured or ill employee may request to return to work on a "light duty" assignment by doing the following:

a) Written Requests:

The supervisor or employee must submit a written request via letter to the Department Director to be placed on "light duty" status, based on a position description of the temporary light duty position.

b) Medical Release:

The employee must obtain and provide to the Department Director a completed Physician's Release form (Form 2.36.2). The form must be completed and signed by the employee's attending Physician and must:

- 1) State that there is reasonable medical probability that the employee will be able to return to full duty at some time in the future; and,
- 2) Authorize the employee to return to work in a “light duty” position and outline the parameters within which the employee may work by completing the “Physician’s Release” form.

### **123.03 Approval of Request**

After the employee has complied with the application process of the Policy and Procedure, the Department Director may authorize the employee to return to work in a “light duty” status for up to 90 consecutive calendar days (inclusive of holidays and weekends), with the duty assignment determined by the Department Director.

### **123.04 Extension**

Prior to the end of the first 90 days on “light duty” status, the employee may request to work additional time on “light duty” for up to 90 additional consecutive calendar days by doing the following:

- A. Submitting the request in writing to the Department Director, and,
- B. Submitting a current written statement from his/her Physician, in which the Physician: approves extended “light duty”.

An extension of 90 consecutive calendar days must be approved by the Department Director.

### **123.05 Criteria for Placement on “Light Duty”**

The determination of whether or not to place an employee on “light duty” work status is the exclusive right of the Department Director.

The following criteria shall be considered by the Department Director in determining whether or not, to place an employee on light duty. The criteria shall include, but not be limited to:

- a) that a “light duty” position be available for assignment within the Department to which the employee is assigned (any exception must be approved by the City Manager or his designee).
- b) that there exists the medical probability that the employee will be able to return to full duty within 180 days. The employee must be qualified for the assignment as additional training will not be provided.
- c) that it is the Physician’s written opinion that the employee is able to perform “light duty” activities.

**123.06 Work Restrictions on “Light Duty”**

An employee who receives a “light duty” assignment will not work on holidays. The Department will not utilize the employee in an overtime status except at the specific direction of the Department Director. An employee who receives a “light duty” assignment shall not engage in off duty employment without written consent of the Department Director.

## **CHAPTER 124 - FUNERAL LEAVE**

### **124.01 Funeral Leave Eligibility**

All full-time employees, including probationary employees, shall be eligible for the provisions of this policy unless covered by a contract with a collective bargaining unit.

### **124.02 Approval of Usage**

The employee's immediate supervisor has the authority to approve or deny the use of funeral leave. The supervisor may, at his/her discretion, require proof of death or relationship.

### **124.03 Payment for Usage**

An employee may receive funeral leave pay for a normal work period only. Employees shall be charged for funeral leave usage in increments of not less than one half hour.

### **124.04 Authorized Use of Funeral Leave**

In the event of death in the immediate family, an employee shall qualify for funeral leave with pay up to three work days (24 hours) for participation in funeral services or arrangements, except in the event of the death of the employee's spouse or child, or someone standing in loco parentis, the leave shall be for up to five (5) consecutive work days. For the purpose of this section, "immediate family" is defined as the employee's spouse, child or stepchild, grandchild, parent, step-parent, grandparent, brother, sister, parents or step-parents of spouse, and grandparents of spouse. The administration of funeral leave shall be established by the City Manager.

In the event of the death of a relative other than the immediate family, as defined above, leave time with pay for up to one work day (eight hours) may, at the sole discretion of the Department Director, be taken for attending funeral services.

Funeral leave in excess of the three or five days for immediate family, or in excess of one day because of the death of one other than a member of the immediate family, as defined herein, shall be charged against accumulated sick leave, not to exceed one (1) day.

Request for funeral leave with pay will not be approved for absences not taken within a seven (7) day period of the date of the funeral.

**124.05 Employee's Claim for Funeral Leave**

The employee shall submit Form 2.37.5 in order to receive payment under Funeral Leave provisions. Failure to submit the form shall result in the employee being determined to be on leave without pay and a deduction in the subsequent payroll period. Departments shall attach Form 2.37.5 to the payroll voucher.

## **CHAPTER 125 - FAMILY AND MEDICAL LEAVE**

### **125.01 Purpose**

The purpose of this policy is to implement the Family and Medical Leave Act of 1993 (FMLA) and amendments thereto. Nothing in this section is intended to expand or provide rights in addition to those covered in the FMLA. All terms used in describing this policy have the meaning assigned to them by the FMLA and the federal regulation implementing the act.

### **125.02 Eligibility**

The Family and Medical Leave Act (FMLA) covers employees who have worked for the City for at least twelve (12) months and have accumulated 1,250 hours worked during the year preceding the leave request. In certain instances prior non-consecutive service may be required to be considered in determining eligibility.

### **125.03 Entitlement**

An eligible employee is entitled to twelve (12) workweeks of unpaid leave (continuous or intermittent) in a 12-month period for maternity; paternity; adoption or foster care placement; care for a sick spouse, child or parent with a serious health condition; qualifying military exigency as set forth in the National Defense Authorization Act (NDAA); and a personal serious health condition. If an employee experiences more than one of these events in a 12-month period, only a total of 12 weeks of leave is available. An eligible employee is entitled to twenty-six (26) workweeks of unpaid leave (continuous or intermittent) in a 12-month period for care of a covered service member with a serious illness or injury incurred in the line of duty as set forth in the NDAA. The City will cover its share of the employee's health insurance premium during the unpaid leave, and will return the employee to their previous job or an equivalent position. An employee on unpaid FMLA leave must pay for their share of health insurance premiums when those premiums come due.

### **125.04 Responsibilities**

The City requires that employees provide written medical and/or military certification as applicable to support their

request for FMLA leave. The City may also require periodic status reports from an employee on FMLA leave to determine the employee's status and plans for returning to work. The City's personnel staff may contact the employee's health care provider to clarify or confirm information in an FMLA medical certification. The City may request an opinion from a second or third health care provider to validate an employee's medical certification. The City can also require periodic recertification of an employee's military eligibility or medical condition. If the employee fails to provide the required medical or military eligibility certification, the leave does not qualify as FMLA leave; therefore the employee is not entitled to continued medical coverage and the right to reinstatement at the end of the leave. The City retains the right to require an employee to request family, military related, or medical leave under this policy. However, it is the City's responsibility to designate the start of FMLA leave, and such designation may be made without a request from the employee where permitted by the act. At such time, the Personnel Division will provide the employee with a Department of Labor form letter, DOL WH-381 that details the FMLA leave rules.

### **125.05 Leave Computation**

The 12-month period in which an employee is entitled to twelve (12) workweeks of unpaid leave in the case of family, medical or military exigency, or twenty-six (26) workweeks in the case of a military caregiver will be computed by measuring backwards from the first day of FMLA leave. The City may designate a period of absence as FMLA leave when an employee is receiving injury leave or workers' compensation, and count the leave as running concurrently for purposes of both the benefit plan and FMLA entitlement.

### **125.06 Family Leave**

#### **A. Definition of Family Leave**

Family leave is leave for maternity, paternity, adoption or foster care purposes.

#### **B. Notification of Family Leave**

It is the duty of the employee to notify his/her Department Director as soon as the pregnancy or placement has been

confirmed. This notice should be at least 30 days prior to either the due date or the placement, except that if 30 days notice is impossible, notice shall be given as soon as possible. The City will not waive this notice requirement.

### **C. Family Leave Time Available to Employee**

An employee on family leave must first exhaust all paid leave, including, sick leave time, and, thereafter, all vacation time, vacation bank, holiday bank, compensatory time, personal day and birthday holiday. If the combined sick leave and vacation time and other paid leaves do not equal 12 workweeks, the employee may use the balance as unpaid FMLA leave. The following limitations apply to family leave:

- 1) An employee's eligibility for family leave expires one year after the child's birth or placement.
- 2) When both spouses are employed by the City, their 12 workweeks will be combined for family leave purposes.

### **D. Point in Time Family Leave Can Be Utilized**

- 1) Leave will be granted to an employee in hourly periods for prenatal care during the pregnancy or for placement arrangements for adoption and foster care.
- 2) Maternity leave will be granted to a female employee upon the certification of the employee's physician that she is no longer capable of adequately performing her job related duties due to pregnancy.
- 3) Paternity leave will be granted to a male employee upon the birth of his child and for the subsequent care of the child.
- 4) Adoption or foster care leave will be granted upon placement of a child into the employee's home.

## **125.07 Medical Leave**

### **A. Definition of Medical Leave**

Medical Leave is leave for care of a sick spouse, child or parent with a serious health condition, and for a personal serious health condition. Some examples of a serious health condition include: heart attacks or other serious heart

conditions, most cancers, strokes, appendicitis, pneumonia, ongoing pregnancy, and prenatal care.

## **B. Notification of Medical Leave**

It is the City's responsibility to designate the start of FMLA leave and whether it is paid or unpaid after obtaining information from the employee or the employee's spokesperson (e.g., spouse, parent, physician, etc.) if the employee is incapacitated.

## **C. Medical Leave Time Available to Employee**

An employee on medical leave must first exhaust all paid leave, including, sick leave time, and, thereafter, all vacation time, vacation bank, holiday bank, compensatory time, personal day and birthday holiday. If the combined sick leave and vacation time and other paid leaves do not equal 12 workweeks, the employee may use the balance as unpaid FMLA leave.

## **125.08 Military Family Leave**

### **A. Definition of Military Family Leave**

**1) Military Caregiver Leave** is leave to care for a covered service member with a serious illness or injury incurred in the line of duty while on active duty. Military caregiver leave shall only be taken once per injury.

**2) Military Exigency Leave** is leave for eligible employees to manage family affairs while a member of the National Guard or Reserves is called to active duty status in support of a qualifying exigency. An employee whose family member is on active duty or called to active duty for the Regular Armed Forces does not qualify for the exigency leave. Examples of qualifying exigencies include (1) Short-notice deployment; (2) Military events and related activities; (3) Childcare and school activities; (4) Financial and legal arrangements; (5) Counseling; (6) Rest and recuperation; (7) Post-deployment activities; and (8) Additional activities not encompassed within the other categories but agreed to by the employer and employee.

## **B. Notification of Military Family Leave**

It is the duty of the employee to notify his/her Department Director as soon as the military exigency or serious illness or injury of the service member has been confirmed. This notice should be at least 30 days prior to the leave date, except that if 30 days notice is impossible, notice shall be given as soon as possible. The City will not waive this notice requirement. It is the City's responsibility to designate the start of FMLA leave and whether it is paid or unpaid after obtaining information from the employee.

## **C. Military Family Leave Time Available to Employee**

An employee on covered military exigency or caregiver leave must first exhaust all paid leave, including, sick leave time, and, thereafter, all vacation time, vacation bank, holiday bank, compensatory time, personal day and birthday holiday. If the combined sick leave and vacation time and other paid leaves do not equal 12 workweeks in the case of military exigency leave or 26 workweeks in the case of military caregiver leave, the employee may use the balance as unpaid FMLA leave.

### **125.09 Reservation of Paid Leave Time**

**Upon an employee's request for FMLA leave under this policy or no later than ten (10) days after the City's placement of an employee on FMLA leave, an employee may, by notifying his or her Department Director, elect to retain a block five (5) or ten (10) days of paid leave for use after the employee's return from FMLA leave. Such retained paid leave may be used intermittently upon the employee's return from FMLA leave consistent with City policy.**

## **CHAPTER 126 - MILITARY LEAVE**

### **126.01 Eligibility**

Permanent full-time employees who are members of any military reserve component are entitled to leave of absence for such time as they are in the military service on field training or active duty for periods not to exceed thirty-one days per calendar year. Such a leave will be granted by the Department Director only after seeing orders from proper military authorities, which shall be presented not less than 30 days prior to the beginning of such training or active duty period, except in the case of emergency.

### **126.02 Pay**

Military training leaves shall be without pay. However, if the employee's military pay is less than the regular City pay, the employee may file a certificate to that effect upon returning and forward it to the Personnel Division, whereupon the employee will be entitled to the difference, up to a maximum of 22 days per calendar year.

### **126.03 Effect of Leave**

Military training leaves do not affect the employee's sick leave or vacation balances, nor are they considered to be a break in continuous employment with the City.

## **CHAPTER 127 - LEAVES WITH PAY**

### **127.01 Reasons for Leave**

Leaves of absence with pay may be granted for any legitimate reason, provided such absence has been approved in advance by the proper authority. A legitimate reason includes, but is not limited to, the following:

Military pre-induction examinations;

Service on a jury;

Acting as a witness in a court case, under subpoena, where the employee is not a party;

Attendance at meetings, conventions, conferences, or short courses of instruction which benefit the City, as determined by the City; and

Closure of City workplaces by the City Manager due to a weather emergency.

### **127.02 Procedure for Approval**

An employee desiring to apply for a leave of absence should submit a written request to their immediate supervisor, outlining briefly the necessity for such a leave. Approval of leaves of absence from 1 to 5 days will be determined by the Division Manager. Department Director approval is required on leaves of absence over five (5) days, up to one (1) month. City Manager approval is required for leaves over one (1) month.

### **127.03 Conditions**

In all cases, approval of a leave will be given in writing with a copy directed to the Personnel Division. When pay is granted by another agency, such as in a court proceeding, the statement from the agency must be submitted with the next payroll following return to work. The employee may: 1) submit the fee to the Finance Department or 2) have the fee subtracted as an adjustment to his/her next paycheck. The length and other conditions of each leave granted will be determined by the facts and circumstances of the case.

## **CHAPTER 128 -LEAVES WITHOUT PAY**

### **128.01 Reasons for Leave**

Leaves of absence without pay for a legitimate reason not covered by the FMLA policy may be granted as follows:

To further an employee's education. (Ordinarily such a leave will be granted only if the leave will directly benefit the City as well as the individual, and provided the employee agrees to return to City employment for a specified period of time after such leave.)

To attend funerals not covered by funeral leave and/or sick leave.

To care for a member of the immediate family during an extended illness after paid leave and FMLA unpaid leave are exhausted.

Personal illness after paid leave and FMLA unpaid leave are exhausted.

Injury not covered by injury leave.

### **128.02 Procedure for Approval**

Requests for Leave Without Pay must be submitted to the Division Manager in a letter outlining the reason for the request. This letter will then be forwarded to the Department Director for approval and the Personnel Division for coordination.

### **128.03 Automatic Leave**

An employee who ceases to receive a payroll check is considered to be automatically on a leave of absence, even though still being carried on the payroll.

### **128.04 Conditions**

The length and other conditions of each leave granted will be determined by the facts and circumstances of the case. All fringe benefits cease while an employee is on a leave without pay after such leave exceeds two weeks. The employee may continue his/her health insurance coverage at his/her sole expense. In the case of illness, injury, or extreme hardship as determined by the City Manager, however, insurance benefits will be continued provided the employee continues to pay

his/her share of the cost, subject to COBRA and the health insurance carrier's restrictions. Longevity pay shall be paid to an employee on a leave of absence without pay during the year on a prorated basis. The period of the leave of absence without pay will be excluded from the longevity payment.

## **CHAPTER 129 - UNAUTHORIZED LEAVE**

### **129.01 Unauthorized Leave**

- A. When an employee has not scheduled time-off with his supervisor and does not report at his/her regularly scheduled time, he/she is considered absent. When an employee is absent, it is his/her responsibility to notify his/her supervisor or the office immediately.

An employee's failure to request a leave of absence or to report an absence in the manner described above will result in the absence being recorded as an unauthorized absence.

- B. Upon returning to work from an unauthorized absence, the employee must report to his supervisor and disclose the reason for the absence.
1. If the supervisor accepts the reason as valid, no penalty will be imposed.
  2. If the reason is not acceptable, the employee will be disciplined and/or docked in pay.

### **129.02 Benefits**

Employees on an unauthorized leave for more than two consecutive weeks no longer accrue benefits. Health insurance may be continued upon the recommendation of the Department Director with approval by the City Manager at the employee's current cost (employee's share). The employee will be carried through the end of the following month and will be offered coverage under the COBRA extension.

### **129.03 Termination**

Employees having three days or more of unauthorized leave time are subject to termination. These days need not be consecutive for a penalty to be imposed.

## **CHAPTER 130 - UNIFORMS**

### **130.01 Purpose**

This regulation establishes the City's policies relative to the use and replacement of uniforms consistent with the current benefit ordinance. Employees covered by a collective bargaining agreement shall follow guidelines established by the appropriate agreement.

### **130.02 Requirements**

Employees who wear uniforms during working hours shall adhere to the following requirements:

- a) Uniforms and other apparel shall be kept neat and clean at all times to the extent possible under respective working conditions.
- b) Items constituting a complete uniform shall be worn as a complete uniform while performing services in the presence of the public, subject to the standards set forth by the Department Director.
- c) Items of apparel that are available for special work conditions, for example, rain gear and boots, but excluding uniforms, shall be used only while working under such special conditions and subject to the standards set forth by the Department Director.
- d) Wearing apparel furnished by the City shall not be worn during off-duty hours except enroute to and from the job and during lunch periods. Such apparel shall not be used at any time while conducting personal affairs.

### **130.03 Replacement Policy**

Employees who are furnished wearing apparel by the City (this does not pertain to rented apparel) shall return the same number of each item being replaced at the time of replacement. Failure of an employee to turn in the proper number for replacement will require him/her to replace the item or items at own expense. Any expense incurred from loss or damage to such apparel due to employee negligence shall be borne by the employee. The frequency of replacements will be determined by the Department Director in accordance with budgetary and policy requirements, including purchasing schedules.

Employees covered by a collective bargaining agreement shall follow procedures outlined in the appropriate agreement.

**130.04 Discipline**

Any employee who violates the provisions of this regulation without reasonable cause is subject to disciplinary action.

## **CHAPTER 131 - TUITION REIMBURSEMENT**

### **131.01 Eligibility**

All regular full-time employees of the City of Middletown are eligible for tuition reimbursement. Funds for this benefit are annually appropriated.

The City of Middletown will pay for the cost of tuition for courses determined to benefit the organization.

For an employee receiving scholarship or grant money (not loans), the amount of the City tuition reimbursement shall be proportionately reduced to cover tuition costs not covered first by the other source of funding.

### **131.02 Reimbursement**

Reimbursement will be provided after completion of the course with a grade of C or better.

1. If a full-time employee has an undergraduate degree, and it is necessary that he or she take a refresher course in order to accomplish a specific assignment or prepare for an assignment planned for the employee, 100 percent of the tuition cost will be reimbursed.

If a Department Director and the City Manager determine it is necessary that any full-time employee take a college/university course or pursue any degree, 100 percent of the tuition cost will be provided.

2. If a full-time employee, not having an undergraduate degree, desires to take a course in order to accomplish a specific assignment or prepare for an assignment planned for the employee, and that course also counts towards an undergraduate degree the employee is desirous of attaining, 75 percent of the tuition cost will be reimbursed.

If a full-time employee desires to take a course not directly applicable to an assignment or the accomplishment of a specific task, but the course is necessary to complete a

degree (Associate, Bachelors, Masters, Doctorate) requirement in a field directly applicable to the employee's position, 75 percent of the tuition cost will be reimbursed.

If a full-time employee desires to take a vocational course which is applicable to the employee's responsibilities, 75 percent of the tuition cost will be reimbursed.

3. If a full-time employee desires to take a refresher course to prepare him or her for a promotional exam, or for the purpose of obtaining a certificate or license that is a job requirement in order to achieve promotion, 50 percent of the cost of the refresher course will be reimbursed.
4. If a full-time employee desires to take a course not directly applicable to an assignment or the accomplishment of a specific task, but the course is necessary to complete a degree requirement in a field related to his or her City employment, but not directly applicable to an employee's present position, 25 percent of the tuition cost will be reimbursed.
5. No employee may receive more than a maximum of \$2,400.00 in one year for tuition reimbursement.
6. The determination regarding reimbursement must be made prior to incurring the expenses for the course in accordance with the following procedures:
  - a) The employee must request reimbursement prior to incurring the expense for the course via the Tuition Reimbursement Request Form (Form 2.44).
  - b) The Department Director reviews the request and recommends approval at the appropriate reimbursement level.
  - c) The Personnel Division reviews the request and recommends for approval or rejection, based on the benefit to the organization, the appropriate reimbursement level, and availability of funds,
  - d) If necessary, exceptions to this policy may be granted by the City Manager.

7. After course completion with a grade of C or higher, reimbursement will be accomplished as follows:
  - a Employee submits proof of grade and payment to division manager.
  - b) Employee's division prepares claim voucher charging tuition expense to the Personnel Division (100-142-52960).
  - c) Personnel Division processes reimbursement.

## **CHAPTER 132 - MISCELLANEOUS FRINGE BENEFITS**

### **132.01 Eligibility**

Only permanent, full-time employees (other than those employees indicated in the following paragraphs) are eligible for fringe benefits. Seasonal, student, co-op, and temporary employees working less than full-time, and other part-time employees are not eligible for fringe benefits, except as otherwise required by law.

### **132.02 Influenza Immunization**

Full-time employees, part-time employees and retirees may receive free annual "flu shots" against influenza, at such times as may be scheduled by the Department of Health and Environment, Social and Health Center, subject to availability.

### **132.03 Wellness Program**

Full-time employees who are enrolled in the City's healthcare plan are eligible to participate in the Wellness Program as established by the Health Care Committee in conjunction with the Health Department.

## **CHAPTER 133 -SEPARATION BENEFITS**

### **133.01 Purpose**

The purpose of this policy is to set out the benefits that will be paid upon termination and how such payments will be made.

Requirements: When any employee separates, he/she shall be required to return all tools, safety helmets, uniforms, insurance and identification cards and other city property and to clear all financial obligations related to employment prior to receiving his/her final paycheck. The department is responsible for collecting the property. In the event that he/she does not clear the above obligations, the City will seek a judgment and hold his/her final paycheck until the financial obligations have been met. This must be certified in writing by the Department Director and Finance Director, before release of the final paycheck.

### **133.02 Responsibility for Computation of Benefits**

The employee's Department Director will be responsible for the computation of separation benefits. Separation Benefits (Form 2.46.2A) should be completed by the employee's department and sent to the Personnel Division. The Personnel Division shall review the calculations. Any discrepancies shall be satisfied between the employee's Department Director and the Finance Department. All computations must be approved by the Finance Department (Treasury Division).

### **133.03 Vacation from Previous Year**

An employee who voluntarily resigns or retires with reasonable notice, or dies, shall be paid for vacation credit earned in the previous year, but not yet taken.

### **133.04 Vacation for Year of Separation**

An employee who voluntarily resigns or retires with reasonable notice, or dies, may be paid for vacation credit earned in the present year.

## **133.05 Sick Leave Payment Upon Separation**

### **Effective January 1, 2005**

With the approval of the Department Director, sick leave may be converted from sick leave to terminal payment as follows: Upon the death, retirement or involuntary layoff of an employee with less than 25 years of service, all unused sick leave credit, in excess of 280 hours, will be converted to termination pay on the basis of 24 hours sick leave for 8 hours pay, to a maximum of five (5) weeks' pay (25 working days or 200 hours);

Upon the resignation of an employee, regardless of age or years of service, all unused sick leave credit in excess of 280 hours will be converted to termination pay on the basis of 24 hours sick leave for 8 hours pay, to a maximum of five weeks pay (25 working days or 200 hours);

Upon the death or retirement of an employee with 25 or more years service, all unused sick leave credit, in excess of 280 hours, will be converted to termination pay on the basis of 16 hours sick leave for 8 hours' pay, to a maximum of ten (10) weeks pay (50 working days or 400 hours);

Upon the resignation of an employee with 25 or more years of service, all unused sick leave credit in excess of 280 hours will be converted to termination pay on the basis of 16 hour sick leave for 8 hours pay, to a maximum of ten (10) weeks pay (50 working days or 400 hours).

### **Effective through December 31, 2004**

With the approval of the Department Director, sick leave may be converted from sick leave to terminal payment as follows: Upon the death, retirement or involuntary layoff of an employee with less than 25 years of service, all unused sick leave credit will be converted to termination pay on the basis of 24 hours sick leave for 8 hours pay, to a maximum of five (5) weeks' pay (25 working days or 200 hours);

Upon the resignation of an employee, regardless of age or years of service, all unused sick leave credit in excess of 280 hours will be converted to termination pay on the basis of 24 hours sick leave for 8 hours pay, to a maximum of five weeks pay (25 working days or 200 hours);

Upon the death or retirement of an employee with 25 or more years service, all unused sick leave credit will be converted to termination pay on the basis of 16 hours sick leave for 8 hours' pay, to a maximum of ten (10) weeks pay (50 working days or 400 hours);

Upon the resignation of an employee with 25 or more years of service, all unused sick leave credit in excess of 280 hours will be converted to termination pay on the basis of 16 hour sick leave for 8 hours pay, to a maximum of ten (10) weeks pay (50 working days or 400 hours).

### **133.06 Sick Leave Conversion to Vacation Upon Separation**

An employee who voluntarily resigns or retires with reasonable notice and has the approval of his Department Director, will be paid for those accumulated sick leave hours in excess of 280 hours as vacation at the rate of 24 hours for eight (8) hours pay, provided that the employee has accumulated these hours prior to January 1 of the year of the termination and that there is sufficient number of hours at the date of termination. Conversion will be permitted for both the present and preceding year to a maximum of 32 hours for each year, or a total of 64 hours. An employee may not convert sick leave credits to terminal pay if they have been converted to vacation credit for the previous year and current year benefits.

An employee who voluntarily resigns or retires with reasonable notice and has the approval of his Department Director, will be paid for those accumulated sick leave hours in excess of 800 hours of sick leave as vacation at the rate of 8 hours for 8 hours pay, provided that the employee has accumulated these hours prior to January 1 of the year of the termination and that there is sufficient number of hours at the date of termination. Conversion will be permitted for both the present and preceding year to a maximum of 32 hours for each year, or a total of 64 hours. An employee may not convert sick leave credits to terminal pay if they have been converted to vacation credit for the previous year and current year benefits.

### **133.07 Longevity Pay**

An employee who is entitled to longevity pay and voluntarily resigns or retires with reasonable notice or dies prior to the date of payment of longevity will receive that longevity earned to the

date of resignation, retirement or death, as a percentage of his/her base salary earned to that date.

### **133.08 Personal Days and Birthday Holiday**

An employee who resigns or retires with reasonable notice, or dies, will be paid for any personal day and/or birthday holiday which has been earned but not taken, unless special provisions have been made by ordinance or collective bargaining agreement.

### **133.09 Holiday Bank/Deferred Longevity Vacation Days**

The Chief of Police and Deputy Police Chief's and the Fire Chief and Assistant Fire Chief shall be able to accumulate unlimited holidays. The Chief of Police and Police Deputy Chief's shall also be able to accumulate up to ten deferred longevity vacation days. An employee who resigns or retires with two (2) weeks notice, or dies, will be paid at the employee's current regular rate of pay for holidays and any deferred longevity carryover days which have been accumulated but not taken.

### **133.10 Insurance**

All employees, who retire under a public retirement fund, shall be entitled to current City medical benefits until such time as coverage is provided by the respective pension fund. No duplication of coverage is permitted.

Employees who are not eligible for medical coverage due to the respective pension system's requirements, shall be entitled to carry such coverage as provided under the Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA).

Any person who obtains a regular retirement on or after January 1, 1995, shall receive \$5,000.00 life insurance coverage paid for by the City. Any person who obtains a disability retirement on or after April 18, 1995 shall receive \$5,000 life insurance coverage paid for by the City. Double indemnity will not be provided on such coverage.

### **133.11 Payment of Benefits**

The sick leave conversion to vacation credit and the sick leave conversion to separation pay will be computed in whichever sequence achieves the greatest benefit to the employee.

Separation pay will be calculated as follows:  
Employee's base hourly rate multiplied by the total number of hours of separation credit equals separation pay.

Payment of benefits herein contained shall be in a lump sum and will be issued with the employee's final paycheck.

### **133.12 Provisions for Employees Who Are Terminated**

In the event a permanently appointed employee, who has been employed more than one year, is terminated, he/she will receive payment for vacation which has been earned in the previous year and not yet taken. Total vacation credit must be calculated to the nearest full day.

### **133.13 Provisions for Probationary Employees Who Are Terminated**

Unless stated in a labor contract, employees terminated during their probationary period will receive vacation payment at the discretion of the Department Director.

## **CHAPTER 134 -EXIT INTERVIEW**

### **134.01 Responsibility**

It shall be the responsibility of the Personnel Division to hold an exit interview with all permanent employees who leave their employment with the City. The interview shall be scheduled during the employee's last week of employment.

### **134.02 Reason for Interview**

The Personnel Division shall set up an interview and discuss with the departing employee the employee's reasons for leaving while attempting to obtain insights into areas of improvement of various City functions. Any information gathered from an exit interview will be utilized only for improvement of City operations and services to the public.

## **CHAPTER 135 - EMPLOYMENT REFERENCE**

### **135.01 Policy**

It shall be the policy of the City, at its discretion, to provide to prospective employers pertinent, factual information regarding a former or present employee's work history with the City and his/her work performance. Nothing in this policy requires the City or any of its employees to provide verbal information to a prospective employer.

### **135.02 Requests**

Requests for employment information from a prospective employer (limited to information such as position held, dates of employment, and factual information regarding work history or job performance) shall be directed to the Personnel Division. No other employee is authorized to release employment information. Furthermore, those persons authorized to release such information are authorized to release it only to the extent that the information is of a factual nature and is not known to that person to be false. Requests for any information not listed above shall be directed to the Law Department.

**135.03** All requests for and releases of personnel documents shall be handled in accordance with the City's Public Records Policy (Chapter 60).

### **135.04 Written Response**

Mailed, written responses are encouraged to ensure background information is provided to the proper requesting organization, and that the City has documentation of what was provided. Any written response to a request for employment information from a prospective employer shall be reviewed by the Personnel Division before it is released to the prospective employer.

### **135.05 Public Records**

Nothing in this Chapter of the Policy and Procedure Manual is intended to prevent or restrict the release of public records, including personnel records, in accordance with Ohio Revised Code Section 149.43.

### **135.06 Credit Reference Checks**

Requests for employment verification for credit purposes need to be submitted to the Treasury Division.

## **CHAPTER 136 - REINSTATEMENT BENEFITS**

### **136.01 Purpose**

The decision whether to reinstate an employee who has resigned or otherwise left City employment shall be solely at the discretion of the City. The benefits detailed herein apply to only those employees who are appointed within one year of the effective date of their resignation. Such employees shall be assigned an adjusted hire date, which reflects their lapse in City service, by changing the date of original hire to a later date based on the length of time not employed by the City. This adjusted hire date shall become the employee's new seniority date for purposes of step increases, longevity, vacation and promotional eligibility. Employees who are reinstated more than one year after resignation shall not be credited with any prior service but will be assigned a new hire date effective their date of reinstatement.

### **136.02 Probationary Period**

Employees who are reinstated within one year of resignation do not serve a probationary period upon reinstatement unless they did not pass the probationary period prior to separation or unless an agreement between the employee and the City states otherwise.

### **136.03 Sick Leave**

A reinstated employee, regardless of the length of the break in service, shall be credited with that sick leave credit earned, but not used, converted to vacation or paid at resignation prior to the resignation.

## **CHAPTER 137 -WORKPLACE VIOLENCE AND FIREARMS**

### **137.01 Workplace Violence**

Acts or threats of physical or verbal violence (including intimidation and/or harassment and/or coercion) which involve or affect the City or its employees or which occur on City property will not be tolerated. Such conduct will be met with the strongest legal action by the City, up to and including termination, the use of law enforcement, and the use of criminal prosecution measures.

Workplace violence includes acts or threats of violence including conduct that is sufficiently severe, offensive, or intimidating to alter the employment conditions or create a hostile, abusive or intimidating work environment for one or more of its employees.

Examples include, but are not limited, to the following:

- (A) All threats or acts of violence occurring on City premises, regardless of the relationship between the City and the parties involved in the incident.
- (B) All threats or acts of violence occurring off the City's premises involving someone who is acting in the capacity of a representative of the City.
- (C) All threats or acts of violence occurring off the City premises involving an employee of the City if the threats or acts affect the legitimate interests of the City.
- (D) Any acts or threats resulting in the conviction of an employee or agent of the City, or of an individual performing volunteer or other services for the City on a contract or temporary basis, under any criminal code provision relating to violence or threats of violence which adversely affect the legitimate interests and goals of the City.

(E) Specific examples of conduct, which may be considered threats or acts of violence, include but are not limited to:

1. Physical assault of an individual (hitting, shoving, kicking, or otherwise having unwelcome physical contact).
2. Threatening harm to individuals, their family, friends, associates, or property.
3. Verbal assault for the purposes of intimidation and/or coercion.
4. The intentional destruction or threat of destruction of City or personal property.

**137.02** Firearms or other weapons of any sort are absolutely prohibited on City property or in City vehicles. Employees are absolutely prohibited from bringing any firearm or weapon onto City property, even if it is kept in your own vehicle. No employee shall carry a weapon on their person while conducting City business, except as specifically permitted in this Chapter. Any employee who violates this policy shall be subject to discipline, up to and including discharge.

This prohibition is not intended to apply to firearms or weapons that are part of the employee's uniform, or are necessary for the performance of the employee's duties. Furthermore, nothing in this prohibition is intended to prevent an off-duty city employee from carrying a concealed handgun in accordance with the provisions of state law, if such person has obtained a license as required under state law. Pocketknives with blades of less than four inches (4") are not considered weapons for purposes of this policy.

### **137.03 Right to Search/Inspect**

The City reserves the right to inspect and/or search any and all parts of City owned premises, including offices, desks, file cabinets, etc. However, an employee may, under certain circumstances, have a reasonable expectation of privacy in certain places in the workplace. Where an employee has a reasonable expectation of privacy at some place in the workplace, a search of that place will be justified where there are reasonable grounds for suspecting that the search will turn up evidence that the employee is guilty of work related misconduct, or that the search is necessary for a non-investigatory work related purpose, such as the need to retrieve

a needed file. The measures adopted for the search must be reasonably related to the objective of the search and not excessively intrusive in light of the nature of the misconduct or the non-investigatory work related purpose.

All workplace searches (unless being conducted by a sworn law enforcement officer or a licensed fire marshal, in connection with a criminal investigation) shall be reviewed and approved by the Law Department prior to the search.

All workplace searches related to criminal investigations shall be conducted by proper personnel in accordance with the requirement of the Fourth Amendment of the United States Constitution and Article I, Section 14 of the Ohio Constitution.

## CHAPTER 138 – ACCOMMODATED EMPLOYEES

### 138.01 Definition

Upon the recommendation of the director of a department, and the approval of the City Manager, which shall be in his/her sole discretion, a regular full-time employee of the City may be provided an opportunity to work part-time for a period not to exceed one year, under the terms and conditions set forth in this Chapter upon returning to work from approved Family Leave or Medical Leave.

### 138.02 Pay Scale

“Accommodated employees” may continue in the last pay step in which they were paid while working full-time, subject to the discretion of their department director and the City Manager.

### 138.03 Insurance

No “accommodated employee” shall be entitled to life insurance or health insurance benefits while working part-time.

### 138.04 Sick Leave

No “accommodated employee” shall accrue or be eligible to use sick leave. “Accommodated employees” may retain any sick leave balance they had accrued at the City prior to entering part-time status, but may not use that sick leave while working part-time.

### 138.05 Vacation

“Accommodated employees” may use the vacation they accrued in their full-time status and have not previously used while working part-time. An “accommodated employee” shall receive vacation benefits in all years following a year in which they worked part-time, in accordance with this policy, on a pro-rated basis, calculated as follows:

- $X \text{ times } Y$
- $\text{Actual hours worked in prior year (excluding overtime)} \div 2080 = X$
- $\text{Number of hours of vacation employee would receive if worked full time in the prior year} = Y.$

### 138.06 Holidays

“Accommodated employees” receive no holiday benefits.

### 138.07 Step Increases

“Accommodated employees” shall not be eligible for a step increase while working part-time. Upon returning to full-time work, the anniversary date of the “accommodated employee” shall be adjusted so that the employee is eligible for a step increase (if any available) after working two thousand eighty (2080) hours, exclusive of overtime, from the employees’ last step increase.

#### 138.08 Other Benefits

All other benefits shall be determined in accordance with the Pay and Benefits Ordinance, and the “accommodated employee” shall be treated as a part-time employee for purposes of such benefits.

## CHAPTER 139 - RETAINED RETIREE

### 139.01 DEFINITION

A “retained retiree” is a full-time employee who has fully retired from the City of Middletown, but returns to the City to continue performing their prior job classification, at the time of retirement, in a part-time status. Fully retired means the employee has received all terminal pay due them and is participating in the proper pension system. A “retained retiree” is treated as a regular, part-time employee, except as otherwise specifically provided herein.

“Retained retirees” must either wait the period of time required for a return to work under the state law regarding pensions or forfeit the necessary pension benefits in accordance with that law before returning to work. A “retained retiree” may not work during the period of time outlined above as a contract employee or loaned employee.

### 139.02 Pay Scale

“Retained retirees” may continue in the last pay step they held as a full-time employee, subject to the discretion of their department director and the City Manager.

### 139.03 Insurance

No “retained retiree” shall be entitled to life insurance or health insurance benefits during their part-time status.

### 139.04 Sick Leave

“Retained retirees” may not use any sick leave they have remaining after receiving their terminal benefits.

### 139.05 Vacation

“Retained retiree” shall receive vacation benefits the same as a regular part-time employee in accordance with the Pay and Benefits Ordinance. “Retained retirees” do not receive any credit under the ordinance for their last year of full-time service prior to retirement in calculating part-time vacation benefits.

### 139.06 Holidays

“Retained retirees” receive holiday benefits the same as a regular part-time employee in accordance with the Pay and Benefits Ordinance. “Retained retirees” do not accrue any credit under the ordinance for the last year of full-time service prior to retirement in calculating part-time holiday benefits.

### 139.07 Step Increases

“Retained retirees” who start in a step below C shall receive step increases in accordance with the Pay and Benefits Ordinance. Only time accrued in part-time status will count towards calculating the hours worked by the employee. “Retained retirees”, who start at Step C or above shall not be entitled to step increases.

#### 139.08 Other Benefits

All other benefits shall be determined in accordance with the Pay and Benefits Ordinance

## **CHAPTER 140 – EMPLOYEE RECOGNITION POLICY**

### **140.01 Purpose**

The purpose of this policy is to establish a process for recognizing employees for their contributions to the City and the community through the creation of several employee recognition awards. All full-time and part-time employees are eligible, except that the City Manager and all Department Heads are excluded.

### **140.02 On-the-Spot Recognition Award**

An On-the-Spot Recognition Award allows any employee to recognize another employee who is “on-the-spot” by presenting this award when they have exhibited one or more of the core values of the city:

1) customer service, 2) continuous improvement, 3) teamwork, 4) integrity, or 5) quality. This award should be used to acknowledge and encourage positive attitudes and behaviors in the workplace.

If an employee observes another employee actively demonstrating one of the above core values of the City, they should complete the electronic “On-the-Spot” award form on the intranet. Upon approval by the employee’s immediate supervisor, the Human Resources Division will produce three copies of the award. The original will be given to the employee, one copy will be given to the supervisor and one copy will be placed in the employee’s personnel file.

Presentation of the award may be made in any reasonable manner as decided by the employee’s immediate supervisor.

A quarterly drawing will be held which will include one entry for each On-the-Spot award recipient for that quarter. Four (4) winners will be selected and each will receive a \$25 cash award.

A yearly drawing will be held in December of each year which will include one entry for each On-the-Spot award recipient for that year. Four (4) winners will be selected and each will receive a \$25 cash award.

### **140.03 Employee of the Month**

The Employee of the Month Award allows the senior staff of the City to recognize an employee's contribution to upholding the core values of the City. Candidates for this award will be chosen from all employees who received an On-the-Spot Award within the previous month. The award winner will be chosen at the final senior staff meeting of each month by a vote of all the Department Heads present at the meeting. The City Manager shall have the power to veto any nomination. The Human Resources Division will produce three copies of the award. The original will be given to the employee, one copy will be given to the supervisor and one copy will be placed in the employee's personnel file.

The award winner will receive a \$50 cash award their name and picture will be posted in the lobby for one month and they will be featured in the City newsletter.

### **140.04 Employee of the Year**

The Employee of the Year Award allows the senior staff of the City to recognize an employee's outstanding contributions to upholding and exemplifying the core values of the City. Candidates for this award will

be chosen from all employees who received an Employee of the Month Award or the City Manager Exceptional Service Award during the preceding twelve (12) months. The award winner will be chosen by a vote of all Department Heads. The City Manager shall have the power to veto any nomination. The Human Resources Division will produce three copies of the award. The original will be given to the employee, one copy will be given to the supervisor and one copy will be placed in the employee's personnel file.

The award winner will receive a \$100 cash award their name and picture will be posted in the lobby for one year and they will be featured in the City newsletter.

#### **140.05 City Manager Exceptional Service Award**

The City Manager Exceptional Service Award allows the City Manager to recognize exemplary conduct by an employee for either: 1) upholding the core values of the City or 2) providing outstanding community service to the Middletown community through personal off-duty service. The Human Resources Division will produce three copies of the award. The original will be given to the employee, one copy will be given to the supervisor and one copy will be placed in the employee's personnel file.

The award winner will receive up to a \$100 cash award and they will be featured in the City newsletter.

#### **140.06 Recognition Leave**

The City Manager may grant up to an additional twenty-four (24) hours of vacation leave to any employee in recognition of either: 1) exemplary

performance of their job duties or 2) an extended period of high productivity.

## **CHAPTER 141 – CITY COUNCIL HOURS OF EMPLOYMENT**

### **141.01 Purpose**

The purpose of this policy is to set forth a method for tracking the working hours of the members of City Council for purposes of compliance with the Patient Protection and Affordable Care Act.

### **141.02 Presumption of Hours Worked**

City Council members are presumed to work forty hours during each calendar month. This presumption includes: 1) preparation for City Council meetings, 2) City Council meetings, 3) proclamations and public appearances, 4) service on committees, 5) correspondences, 6) constituent meetings and 7) miscellaneous other duties.

### **141.03 Responsibility for Tracking Additional Hours**

If a City Council member works in excess of 40 hours in a given month it is the responsibility of the member or members to inform the Clerk of Council of the number of additional hours. Council members may do so utilizing form 141.03 and submitting it to the Clerk of Council.