

# CITY OF CLAYTON, OHIO

ORDINANCE NO. O – 06 - 19 - 03

## AN ORDINANCE APPROVING AMENDMENTS TO THE CITY'S PERSONNEL PRACTICES MANUAL AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Charter Section 11.03, Council enacted Ordinance No. O-08-99-15 on October 7, 1999 adopting a Personnel Practices Manual; and

WHEREAS, City Staff has recommended specified amendments to the City Personnel Practices Manual as indicated in the attached *Exhibit A*. Suggested deletions are in ~~strike through~~ and additions are in **bold**.

### NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:

1. That the proposed amendments to the City of Clayton Personnel Practices Manual appended hereto as *Exhibit A* are hereby adopted.
2. That this Ordinance shall be effective as an exception to any ordinance, resolution or other legislation of the City of Clayton, Ohio, inconsistent with this Ordinance or which imposes additional requirements for effectiveness or validity.
3. That in accordance with Clayton Charter Section 4.031(B) the requirement that this enactment be read on two (2) separate days is dispensed with by affirmative vote of at least five (5) of the members of Council.
4. That prompt implementation of the modifications to this Manual are necessary for continued effective management of personnel and implementation of policies and benefits so as to ensure continued provision of City services, and absent immediate implementation, public health and safety and welfare will be detrimentally affected. Accordingly, in accordance with Charter Section 4.033(A) this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City and shall therefore be in full force and effect from and immediately upon affirmative vote of at least five (5) of the members of Council.

ADOPTED BY COUNCIL ON JUNE 20, 2019.

AUTHENTICATION:



Mayor (Presiding Officer of Council)



Clerk of Council

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Law Director

CERTIFICATION OF PUBLICATION

This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper

Brookville Star

Date of publication

June 26, 2019

  
CLERK

# CITY OF CLAYTON, OHIO

## EXHIBIT A TO ORDINANCE NO. O – 06 - 19 - 03

### ARTICLE 2 EMPLOYMENT AND THE MERIT SYSTEM

#### **V. AMERICANS WITH DISABILITY ACT**

**The City of Clayton complies with all applicable regulations as set forth in the Americans with Disabilities Act (ADA) and all applicable state, federal, and local laws. The City prohibits discrimination against qualified individuals with a disability with regard to employment, job assignment, promotion or other terms or conditions of employment. When an individual decides to request accommodation, the individual must let their supervisor know they need an adjustment or change at work. Reasonable accommodation will be provided, except where such accommodation would create undue hardship on the City.**

**Although the City may make pre-employment inquiries into the ability of an applicant to perform job-related functions, the City will not require a medical examination (as defined under the ADA) until after extending a conditional offer of employment. Information obtained by the City regarding the medical history or condition of any employee shall be collected and maintained on separate forms and in separate medical files and shall be treated as a confidential medical record, except as otherwise provided under applicable federal, state, or local laws.**

### ARTICLE 3 EMPLOYEE SELECTION

#### **K. ANTI-NEPOTISM POLICY**

**The City of Clayton does not prohibit the employment of members of the same family. Members of an employee's family will be considered for employment on the basis of their qualifications, though employment of family members within the same department is strongly discouraged.**

**Neither applicants nor employees hired after July 1, 2019, are eligible to be considered for hire, reappointment, promotion or transfer to a position or department where they would supervise or receive direct supervision from any of the following:**

- **Spouse or former spouse**
- **Parent, including in-laws and step**

- **Child, including in-laws and step**
- **Grandchild, including in-laws and step**
- **Grandparent, including in-laws and step**
- **Brother, including in-laws and step or half**
- **Sister, including in-laws and step or half**
- **Aunt or Uncle**
- **Niece or Nephew**
- **Any other person residing in the same household as the employee.**

## ARTICLE 5 DISCIPLINE

### *Purpose*

The City of Clayton subscribes to a policy of progressive discipline. The policy and procedures within this program are designed to provide a structured corrective action process to improve and prevent a recurrence of undesirable behavior and/or performance issues.

### *Policy*

The City's disciplinary system is progressive in nature (i.e., first occurrence of a minor problem is handled with less severity than future occurrences). Throughout any disciplinary process, the supervisor should give the employee every opportunity to give his/her side of the story. Disciplinary/corrective action should be discussed in private. Employees should be made aware of expectations either verbally or in writing and notice of any deficiencies should be documented and retained. Such documentation should be specific and should avoid conclusions unless supported by facts.

Any action that reflects discredit upon the City service or is a direct hindrance to the effective performance of the City's governmental functions is good cause for disciplinary action against an employee. The primary objective of disciplinary action shall be to improve the overall performance, efficiency, and morale of the City's employees. Disciplinary action should be administered positively and constructively.

**The City requires its employees to be truthful, courteous, and respectful toward supervisors, co-workers, citizens, customers and other persons associated with the City.** Any employee may be removed or disciplined for infractions including, but not limited to, incompetence, failure to maintain standards or certification, inefficiency, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of the legislative enactments of the City or state or federal laws, violations of ~~these~~ Personnel Policies, or any other acts of misfeasance, malfeasance, and/or nonfeasance of duty. Nothing in this Article shall be construed to limit the right of the City to lay-off or separate from the service any employee in the event any position

becomes unnecessary or is abolished by reason of lack of funds or technological advancements.

This policy applies to all regular full-time and part-time employees not covered by a bargaining agreement. ~~Discipline and termination of part-time seasonal or temporary employees are not subject to the provisions of this policy.~~ Union employees are subject to the disciplinary process outlined in their respective bargaining agreement.

**Part-time seasonal and temporary employees are not subject to progressive discipline procedures and may be terminated at any time for any reason or no reason which is not contrary to law.**

**Some city employees serve in the unclassified civil service by law, or by appointment to positions which have been excluded from the classified service. Such employees serve at the pleasure of the appointing authority and may be removed at any time, with or without cause as long as the removal does not violate federal or state law.**

#### *Reasons for Discipline*

~~Discipline is not administered only for the violation of written City of Clayton policies or local, state and federal laws but rather, there are actions, behaviors and levels of performance which warrant corrective action, whether written or not.~~

**An employee's inability to perform the duties of their position, improper conduct or any improper use of their position could result in disciplinary action or dismissal. The following actions exemplify behavior necessitating disciplinary action or dismissal. This list is not to be considered all-inclusive but rather is included to give employees a better understanding of inappropriate behavior.**

**Any officer or employee of the City may be disciplined or dismissed if they:**

- 1. Are incompetent, negligent or inefficient in the performance of their duties.**
- 2. Have intentionally falsified time sheet(s).**
- 3. Have abused approved absences such as sick leave, funeral leave or injury leave.**
- 4. Have stolen City property.**
- 5. Have threatened to, attempted to, or used political influence in securing a position, leave of absence, transfer, change of grade or pay, or character of work.**
- 6. Are purposely abusive in their conduct or language toward the public or other City officers or employees.**
- 7. Fighting or threatening violence in the workplace.**

8. Using intimidation tactics and making threats.
9. Sexual or other harassment.
10. As an employee of the city, fail to conduct their private and professional life so as to avoid bringing discredit upon the city by scandal, spectacle or ridicule.
11. Are absent without authorization. An employee absent from duty without authorization for three consecutive days will be deemed to have terminated their employment as of the last day of active employment.
12. Falsely make any type of official report or knowingly enter or cause to be entered any inaccurate or false information on the books, records or registers of the City.
13. Have knowingly violated the City Charter, Personnel Manual, or Department Policy.
14. Display conduct subversive to the good order and discipline of their Department.
15. Are careless or negligent with regard to City property.
16. Participate in unauthorized use of City vehicles or equipment.
17. Are under the influence of alcohol or any illegal substance while performing City services.
18. Fail to obey or comply with a direct order from a supervisor or the City Manager.
19. Willfully or negligently causes injury to themselves or others, destroy or damage City property and/or disregard traffic regulations while operating City vehicles or equipment.
20. Knowingly violate workplace safety policies and procedures or creates unsafe conditions which could place other employees or citizens in jeopardy.
21. Sabotaging another's work.
22. Making knowingly malicious, false or harmful statements about others.
23. Willfully disclosing confidential information publicly.

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## ARTICLE 6 HOURS OF WORK AND LEAVE

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### P. Family Medical Leave Policy

#### *Purpose*

To outline the eligibility requirements and process used by the City of Clayton in order to comply with the Family and Medical Leave Act (FMLA) of 1993.

## *Policy*

The Family and Medical Leave Act (FMLA) entitles eligible City employees to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

## *Eligibility*

To be eligible for Family Medical Leave (FMLA) benefits, an employee must meet the following criteria:

- Employed with the City for at least 12 months;
- Worked at least 1,250 hours for the City during the 12-month period immediately preceding the leave.

## *Leave Entitlement*

~~Employees may choose to exhaust all paid leave before applying for FMLA. If an employee chooses to defer application for FMLA, all leave must be taken in accordance with the rest of this Personnel Manual. If an employee exhausts all paid leave and the serious medical condition continues, the employee must apply for FMLA leave.~~

Eligible employees may take up to twelve (12) weeks of FMLA in a twelve (12) month period for one or more of the following reasons:

- The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
- To care for a spouse, son, daughter, or parent who has a serious health condition;
- For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
- For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.

An eligible employee may also take up to 26 weeks of FMLA during a single twelve (12) month period to care for a covered service member with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the service member.

Under some circumstances, employees may take FMLA leave on an intermittent or reduced schedule basis. That means an employee may take leave in separate blocks of time or by reducing the time he or she works each day or week for a single qualifying reason.

When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt operations. If FMLA leave is for the birth, adoption, or foster placement of a child, use of intermittent or reduced schedule leave requires the approval of the ~~employee's supervisor~~ **employer**.

If an employee ~~elects to apply~~ **qualifies** for **leave under FMLA** leave and paid leave is available, to include sick, compensatory, and vacation or annual leaves, paid leave must be used concurrently with family medical leave under the FMLA. The paid leave used while on FMLA is counted towards the twelve (12) or twenty-six (26) week FMLA-qualifying leave. When paid leave is available, it must be used according to following:

- If the qualifying event will result in an employee's extended absence from work duties, the first eight (8) hours of leave time will be deducted from Employee Leave (EL). After the first (8) hours of leave, Extended Sick Leave will be used. If the employee's ESL is exhausted before FMLA leave has ended, the remainder of the leave time will be deducted from **EL or compensatory time**.
- If the qualifying event results in the employee's intermittent absence from work duties, the first eight (8) hours of leave time will be deducted from Employee Leave (EL), with the remainder of the FMLA qualifying intermittent leave being deducted from the employee's Extended Sick Leave. If the employee's ESL is exhausted before FMLA leave has ended, the remainder of the leave time will be deducted from **EL or compensatory time**.
- When an employee submits a request for FMLA qualifying leave, the leave must be clearly designated as FMLA leave on the Request for Leave/Overtime Form **and on the employee's timesheet**.
- If a holiday falls within an employee's FMLA designated leave and that employee is using paid leave time concurrently with FMLA, the employee will receive holiday pay for that holiday. The paid holiday will not be deducted from Employee Leave or Extended sick leave but **will** be counted toward the total FMLA time allotted to the employee.

### *Special Provisions*

Leave granted for the birth of a child, the care of a recently adopted child, or the placement of a foster child in the employee's home is granted to both the mother and the father of a child and is subject to the following special provisions:

- Must be taken within twelve (12) months after the child's birth, adoption, or placement.



- May begin before the birth of the child, for prenatal care or if a medical condition warrant.
- May require medical certification of need to seek leave.
- May only last for twelve (12) weeks combined if both parents are employed by the City.
- Use of paid leave is subject to the stipulations outlined in the section "Leave Entitlement."

### *Definitions*

According to the Family and Medical Leave Act, a "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
- A period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
- Any period of incapacity due to pregnancy, or for prenatal care; or
- Any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
- A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,
- Any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

Not considered eligible for FMLA are routine physical examinations, absences because of substance abuse without treatment, routine dental work, and short-term conditions (three days or less) for which treatment and recovery are very brief.

The definition of a "health care provider" who may provide certification of a serious health condition includes:

- Doctor of Medicine or Osteopathy
- Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist)
- Nurse practitioners, nurse-midwives, and clinical social workers
- Christian Science practitioners
- Health care provider recognized by the employer or the employer's group health plan's benefits manager

### *Insurance Continuation*

The City must continue an employee's group health insurance program coverage when the employee is using FMLA leave without pay. Coverage must be continued on the same basis as before the leave begins. New or changed health benefit coverage must be available to the employee on the same basis as if the employee were not on leave. The City is required to continue to pay its share of premium cost. The employee must pay the employee's share of the premium costs. The City of Clayton may discontinue an employee's insurance coverage if the employee's required premium is more than thirty (30) days late. If the City does not receive the employee's premium payment, the City will provide written notice to the employee. If employee does not pay the premium within fifteen days of the date of the letter, the City may discontinue the employee's insurance coverage.

The City will continue HSA contributions on the same basis as if the employee were not on leave so long as the employee's health insurance premium is not more than thirty (30) days overdue. If the employee's health insurance premium is more than thirty (30) days overdue and coverage is discontinued, the City will discontinue contributions to the employee's HSA. Dental insurance and Life/AD&D insurance coverage will also be discontinued if the employee's health insurance premium is discontinued.

If insurance coverage and HSA contributions are discontinued, the City must reinstate all insurance coverage and HSA contributions when the employee returns from FMLA leave so long as the employee's share of the required premiums is not more than thirty (30) days overdue and the employee continues to qualify for coverage in accordance with insurance policy requirements.

### *Job Restoration*

Upon return from FMLA leave, an employee must be restored to his or her original job or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. An employee's use of FMLA leave cannot be counted against the employee. If an employee is reinstated to any position other than the position held before taking FMLA leave, the City Manager's approval must be received in advance.

### *Responsibilities*

The City is responsible in all circumstances for designating leave as FMLA-qualifying and giving notice of the designation to the employee. It is the employee's responsibility to provide enough information for the City to reasonably determine whether the FMLA may apply to the leave request.

An employee must ordinarily provide a thirty (30) day notice when FMLA leave is foreseeable. When thirty (30) day notice is not possible, the employee must provide notice as soon as practicable and must comply with the City and department's call-in procedures.

The City may require medical certification to support a leave request because of a serious health condition and may require second or third opinions (at the City's expense). The City may also require intermittent status reports and a fitness-for-duty report from a physician prior to allowing an employee to return to work. Such designation must normally be made before the leave begins, but in no event after such leave ends.

### *Procedure*

1. Employee notifies supervisor of an injury or illness that may qualify for FMLA leave.
2. ~~Department Director/Supervisor determines whether leave request may qualify as FMLA leave.~~ confers with or refers employee to HR Administrator to determine whether a request qualifies as FMLA leave.
3. ~~Department Director/Supervisor confers with or refers employee to HR Administrator to determine whether a request qualifies as FMLA leave.~~
4. Within three (3) business days of identifying the leave request as a serious medical or family event, the HR Administrator must provide the employee with notice of eligibility for leave using the form "Notice of Eligibility and Rights & Responsibilities (Family and Medical Leave Act)."
5. If medical certification is required to support a leave request, the employee is given the form "Certification of Health Care Provider for Employee's Serious Health Condition (Family and Medical Leave Act)" or "Certification of Health Care Provider Family Member's Serious Health Condition (Family and Medical Leave Act)," which is to be completed by a health care provider and returned to the HR Administrator within fifteen (15) calendar days.
6. When the employer has been provided enough information to determine whether the leave is being taken for an FMLA-qualifying reason, such as submitting a certification, the employee will be notified of whether the leave is designated and will count as FMLA leave within five (5) business days, absent extenuating circumstances. The employee will also be notified if it is determined that the leave is not FMLA-qualifying and will not be designated as FMLA leave. The designation notification will be given to the employee in writing using a Designation Notice Form.
7. The following information will be included in the Designation Notice:
  - a. Approval or denial of FMLA leave.
  - b. Notice of required intermittent status checks to be provided to the employee's supervisor.

- c. Notice of requirement to submit a fitness-for-duty certification addressing the employee's ability to perform the essential functions of the employee's position before the employee may return to work.
- d. Notification of the amount of leave counted against an employee's FMLA entitlement.
  - i. If known at the time the leave is designated, the City will notify the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA entitlement.
  - ii. If it is not possible to provide the hours, days, or weeks that will be counted against the entitlement (such as in the case of unforeseeable, intermittent leave), then the City will provide notice of the amount of leave counted against the FMLA leave entitlement at the request of the employee, but no more often than once in a 30-day period and only if leave was taken in that period. Notice of the amount of leave will be given in writing no later than the following payday.

### ***Prevailing Law***

**Should discrepancies appear between the provisions of FMLA and other sections of this manual, the requirements of the federal law will prevail.**

## **ARTICLE 10 RETIREMENT**

### **A. RETIREMENT PROGRAM**

#### ***Coverage***

**On the first day of employment, all employees must enroll in either the Ohio Police and Fire Pension Fund (OP&F) or the Ohio Public Employees Retirement System (OPERS).**

#### ***Eligibility***

**All sworn full-time officers of the Police or Fire Departments, whether on probationary or career status, must participate in the OP&F or OPERS, as authorized by the State of Ohio.**

**All other full-time employees, whether on Probationary or Career status and any part-time employee, except for part-time Fire, must participate in OPERS.**

**Elected officials, though exempt from mandatory membership, may also apply for membership in OPERS.**

***Contributions***

**Employee Contributions.** The employee's rate of contribution toward their respective retirement system is established by the State of Ohio and is subject to periodic changes. This amount will be deducted from their payroll and is State and Federal tax deferred.

**Employer Contributions.** The City will pay the employer rate and will abide by the rules of the respective retirement systems.

***Coverage During Leave of Absence***

**Retirement contributions will be continued for employees on leaves of absence with pay.**

**Retirement contributions for employees on leaves of absence without pay will be suspended until they return to work.**

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**ARTICLE 18 CODE OF ETHICS AND GIFTS OR GRATUITIES**

**A. CODE OF ETHICS**

***General Provisions:***

**The proper operation of democratic government requires that actions of public officials and employees be impartial; that government decisions and policy be made within the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Recognition of these goals establishes a Code of Ethics for all officials and employees appointed and employed by the City of Clayton.**

***Guidelines:***

- 1. No employee shall use their official position for personal gain, nor shall they engage in any business or transaction, nor shall they have a financial or other interest, direct or indirect, which is in conflict with the proper discharge of their official duties.**
- 2. No employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City nor shall they use such information to advance the financial or other private interest of themselves or others.**
- 3. No employee shall accept any valuable gift or gratuity whether in the form of service, loan, item or promise from any person, firm or corporation**

**which is interested directly or indirectly in any manner whatsoever in business dealings with the City; nor shall employees accept any gift, favor or item of value that may tend to influence an employee in the discharge of their duties, nor grant in the discharge of their employees duties any improper favor, service or item of value. Reference should also be made to Gifts or Gratuities in this Article. Similarly, employees shall refrain from the opportunity to earn personal “credits” or “rewards” when making purchases on the City’s behalf. This would include the opportunity to earn such benefits as airline frequent flyer miles, gasoline purchase credits, supermarket rewards and the like.**

- a. Any employee offered a gift or favor who is not sure if its acceptance is a violation of the Code of Ethics should inform their supervisor of the gift/offer. The supervisor will make a decision or refer the individual to the Department Director or the City Manager.**
- 4. No employee shall represent private interests against the interest of the City in any action or proceedings of which the City is part.**
- 5. State law provides specific restrictions regarding financial interest in companies which do business with public agencies. Employees who have any doubt concerning possible violation of these statutes are advised to consult with their own attorney.**
- 6. No employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of their official duties. Any employee having doubt as to the applicability of a provision of this Code of Ethics to a particular situation should consult their Department Director. Reference should also be made to Article 12 Outside Employment. If the Department Director is in doubt, they shall refer the employee to the City Manager.**
- 7. Violations of this Code of Ethics may constitute cause for suspension, removal from employment or other disciplinary action. In some instances, ethics violators are subject to criminal prosecution and penalties; violations may be reviewed by the Ohio Ethics Commission and/or related agencies.**

## **B. GIFTS OR GRATUITIES**

### *Purpose*

The purpose of this article is to provide guidance on when it is and is not proper for City employees or officials to solicit or accept things of **substantial** value from those parties they regulate or with whom they do business.

## *Definitions*

Substantial value - some things of value—because of their nature—could have a “substantial” influence upon an official in the performance of his or her duties. Examples of gifts with substantial value include, but are not limited to, meals at expensive restaurants, entertainment activities such as exclusive golf outings and season tickets to the games of a professional sports team, jewelry, discounts on major consumer items, and travel, meal, and lodging expenses.

Improper Source - some things of value—because of their source—could have an “improper” influence upon an official in the performance of his or her duties. A person, company, or other private or public entity or association that is regulated by, interested in matters before, or doing or seeking to do business with a public agency is an improper source of gifts, meals, entertainment activities, and other things of **substantial** value offered to the officials of that agency.

Compensation - anything of value, such as wages, gifts, and travel expenses, provided to City employee or official in exchange for a service.

## *Policy*

Due to the nature of local government and the fact that all employees are agents of the public for the benefit of the public, an employee or official cannot solicit, accept, or use the authority of a public position to secure anything of value, including a gift, meal, or entertainment, if it is of a substantial nature and is provided by an improper source.

Small gifts, such as a book, a meal at a family restaurant, a promotional item, an inexpensive entertainment activity, and other things of nominal value **that will not have a substantial influence is not prohibited.**~~, even if they are provided by an improper source, will not have a substantial influence on an official. An official is not prohibited from accepting these kind of items.~~

A City employee or official cannot accept anything of value from any person, company, or other entity or association, other than the public agency he or she serves, if it is given with the intent to compensate him or her for some action, inaction, or decisions of the official in the performance of his public duties.

Employees found in violation of this policy may be subject to discipline up to and including termination.

## ARTICLE 23 UNIFORMS, DRESS CODE AND PERSONAL APPEARANCE

~~The City shall provide uniforms required by personnel in the discharge of their duties. Uniform descriptions will be created at the discretion of the City Manager to the extent that such uniform descriptions comply with applicable laws. Uniforms may be a taxable fringe benefit according to IRS rules and regulations.~~

**Appearance plays an important role in portraying the professionalism of our City government. All employees shall have a neat and professional appearance that reflects well upon the City of Clayton. All employees of the City are expected and encouraged to exercise discretion and good taste in their matter of dress. Each employee's attire, grooming and personal hygiene should be appropriate to the work situation. Acceptable personal appearance, like proper maintenance of work areas, is an ongoing requirement of employment with City of Clayton.**

- A. City Uniforms. Uniforms shall be provided at the discretion of the City and must be approved by the City Manager. Uniform descriptions will comply with applicable laws. All employees who are provided a City uniform shall report to work each day in a clean uniform. Uniforms, including City supplied t-shirts, shall not be altered in any manner. Any questions regarding City provided uniforms should be directed to your Department Director. Uniforms may be a taxable fringe benefit according to IRS rules and regulations.**

**City uniforms shall not be worn when the employee is off duty unless coming to or from work or authorized by the Department Director or City Manager. Remember that when you are wearing City clothing, you are visually representing the City of Clayton. You are responsible for presenting a positive, professional image while wearing City clothing and conducting yourself in a way that will not reflect poorly on you, the City or your Department.**

- B. Personal Appearance. Employees who are not provided with a uniform by the City are also expected to be properly dressed for the type of work they are performing. Employees are expected to dress in a manner that is typically acceptable in similar business establishments.**

**At its discretion, the City Manager or Department Director may allow employees to dress in a more casual fashion than is typically required. On these occasions, employees are expected to present a neat appearance.**

**Each department is authorized to develop and implement additional policies that relate to the provisions of "personal appearance" which are**



**not inconsistent with the policy and guidelines established herein, upon approval of the City Manager. Certain staff members may be required to meet special dress, grooming and hygiene standards, such as wearing uniforms or protective clothing, depending on the nature of their job. Uniforms and protective clothing may be required for certain positions and will be provided to employees by the City.**

**Any employee who does not meet these standards or departmental policies will be required to take immediate corrective action, which may include leaving the premises and/or requirement to wear a city supplied uniform. Any work time necessary to correct appearance may be recorded as “personal leave” or “leave without pay.”**

#### ARTICLE 26 CELLULAR TELEPHONE POLICY

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##### *Use of City-Provided Communication Devices*

Where job or business needs demand immediate access to an employee a department may request and be issued with the approval of the City Manager a business cell phone for work-related communications. ~~Cell phone ringtones should be set to “silent” or “vibrate” mode during normal business hours or while conducting City business outside normal business hours.~~

While some minimal personal use is inevitable, a City provided phone is intended for business calls. Call summary reports (i.e. number of minutes used) are distributed to supervisors on a periodic basis and are to be reviewed for reasonableness. Employees will reimburse the City for any overage charges related to personal calls. The call detail records generated from assigned cell phones are considered records of the City and may, on occasion, be subject to internal and outside audits by the City and/or official agencies.

Employees in possession of City equipment (e.g., cellular phones, pagers, radios, etc.) are expected to protect the equipment from loss, damage or theft. While some reasonable damage may be expected while carrying out job duties, damage due to gross negligence on the part of the employee responsible for the equipment may lead to disciplinary action.

Upon resignation, termination of employment, or at any time upon request, the employee will be asked to produce the equipment for return or inspection. Employees unable to present the equipment in good working condition within a reasonable time period (i.e., 24 hours) will bear the cost of a replacement. Final determination of damages is at the discretion of the Department Director, with approval by the City Manager.

Employees who separate from employment with outstanding debts for equipment loss or unauthorized charges will be considered to have left employment on unsatisfactory terms and may be subject to legal action for recovery of the loss.

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## ARTICLE 28 SOCIAL MEDIA POLICY

### *Purpose*

This policy establishes the City's guidelines for employee use of city-managed and personal social media accounts. **Police Department employees shall refer to General Orders for additional guidelines and policies.**

### *Policy*

Both in professional and private roles, employees need to follow the same behavioral standards online as they would in real life. The same laws, professional expectations, and guidelines for interacting with the public apply online as in the real world. ~~Employees are liable for anything they post to social media sites. The city reserves the right to restrict or remove any media that is determined to be in violation of this policy or any applicable law.~~ **enact discipline consistent with the disciplinary procedures herein for violations of this policy. This policy does not restrict actions or activities protected under section 7 of the National Labor Relations Act or any other federal or state law or regulation.**

### *Definitions*

Social Media/Social Media Site - Content created by authors, using accessible, expandable and upgradeable technologies through and on the internet including but not limited to Facebook, Twitter, etc.

Comments - Information in the form of a text, picture, video, audio or any other form of communicative content posted on a city social media site.

Site Moderator - Employee(s) authorized by the city to review, respond to and remove content posted on the city's social media site.

### *City-sponsored Social Media*

### *Monitoring and Control*

1. All city-sponsored social media sites must clearly indicate that they are maintained by the City in accordance with its Social Media Policy and applicable federal, state and local laws, regulations and policies.

2. Any solicited content posted on a social media format will be deemed as a public record subject to public disclosure.
3. The site moderator is responsible for monitoring content on City social media sites to ensure adherence to this policy and in accordance with the following terms:
  - a. Site Moderator(s) are assigned by the City Manager.
  - b. Moderators are responsible for responding to comments and requests that are posted onto a city social media site and referring questions to members of the staff when necessary.
  - c. Site Moderators shall not share personal information about themselves or other city employees.
  - d. Content posted on a city social media site that is determined to be in violation of this policy or any other applicable policy is to be removed by the moderator, with a copy of the deleted comment maintained in a separate document.
4. City Social Media Sites that permit interactivity should contain a disclaimer on the site that indicates that posted comments do not necessarily represent the views or position of the city.

#### *Public Comment*

1. Comments containing any of the following are prohibited and will be removed from the site by the site moderator:
  - a. Comments not topically related to the site, article or thread being referenced or unintelligible comments;
  - b. Profane, defamatory or harassing language or content or any comments attacking or demeaning a specific individual or position;
  - c. Content that specifically names any employee of the city;
  - d. Comments submitted anonymously;
  - e. Materials directly promoting or advocating violence or the threat of violence;
  - f. Sexual content or links to sexual content;
  - g. Content that promotes, fosters or perpetuates discrimination on the basis of gender, race, creed, color, age, religion, sexual orientation, national origin or any other protected class under state or federal law;
  - h. Conduct or encouragement of illegal activity;
  - i. Comments in support of or in opposition to any political candidate campaigns or ballot measures;
  - j. Information that may compromise the safety or security of **employees, City representatives**, the public or public systems;
  - k. Solicitations of commerce or promotion of private business enterprises;
  - l. Content that violates a legal ownership interest, such as copyright, of any party;

- m. Any content that the City of Clayton management deems inappropriate for any other reason.

### *Third Party Social Media Sites*

All comments posted to any of the City's third-party social media sites are bound by the third-party social media's Statement of Rights and Responsibilities. The city reserves the right to report any violation of any third-party social media site's Statement of Rights and Responsibilities so that the third-party social media site can take appropriate and reasonable responsive action.

### *Personal Social Media*

Participating in a personal blog, wiki, online social network or any other form of online publishing or discussion is completely at the discretion of the employee. However, these ~~new ways~~ **means** of communication are changing the way we talk to each other and the public. Any opinions or personal information disclosed about or by an employee may be linked to the City of Clayton. This is true even if personal pages are restricted to viewing only by friends.

In order to avoid any problems or misunderstandings, employees should adhere to the following guidelines when operating on the internet:

~~Read and be familiar with City personnel policies. Expectations of online interactions are the same as for in-person behavior.~~

- 1. You must keep the personal use of social media during working hours or with City equipment to a minimum. The City's computer system and access to the system are provided to employees to assist them in the performance of their jobs. Limited personal use of the City system is permitted, provided it (a) is kept to a minimum, (b) does not interfere with an employee's work or the work of another, (c) does not consume significant City resources, and (d) is otherwise in compliance with all City policies, including but not limited to the City's Computer, E-Mail, Internet Use, Discipline, Harassment and Code of Ethics policies.**
2. If you identify yourself as a City of Clayton employee when conducting personal social media activities, consider stating in your profile that your comments are not representative of the City of Clayton government. Examples include:
  - a. *Twitter bio:* Tweets are my own.
  - b. *Blog or website bio:* While I work for the City of Clayton, anything I publish is my personal opinion and not necessarily the opinions or position of the City of Clayton government.
3. Whether or not you specify on your personal social media accounts that you work for the City of Clayton, your employment with the City is public record. Be

mindful that whenever you discuss issues online, whether in a personal or professional capacity, your comments can be tied back to your employment with the City of Clayton.

~~If commenting on City business, employees should use a disclaimer which establishes that their comments represent their own opinions and do not represent those of the City of Clayton.~~

4. Employees may not attribute personal statements or opinions to the City when engaging in private blogging or postings on social media sites.
5. Do not use a City email address when using social media in personal capacities. For example, don't create a personal Facebook or Twitter account using your clayton.oh.us email address.
6. Personal or business venture social media account names shall not be tied to the City. For example, CityofClaytonCop would not be an appropriate personal account name.

~~Do not post pictures taken while on duty on any personal social media platform.~~

7. **Do not post anything that is known to be false, misleading, defamatory or libelous to the City, its employee or its representatives.**
8. Do not post any picture while in duty uniform that would reflect badly on you, the City or your department (i.e., holding an alcoholic beverage, smoking, etc.) **as indicated in Article 23, Uniform, Dress Code and Personal Appearance policy, in this manual.**
9. The following guidelines apply to personal communications using various forms of social
  - a. Use common sense when using social media sites. Remember that what you write is public, may be public for a long time, and may spread to larger audiences. ~~Refrain from posting information that you would not want your supervisor or other employees to read or that you would be embarrassed to see in the newspaper or on television.~~
  - b. The City expects its employees to be truthful, courteous, and respectful toward supervisors, co-workers, citizens, customers and other persons associated with the City. Employees shall not engage in name-calling or personal attacks or other such demeaning behavior.
  - c. Employees are representatives of the City on and off duty, and as such are expected to uphold the values of the City in both their personal and professional lives. Employees shall not engage in discriminatory, prejudicial or harassing behavior ~~when communicating online.~~ **per Article 17, Discrimination, Sexual Harassment and other forms of Harassment Policy, in this manual.**

### *Discipline*

Employees in violation of this policy may be subject to discipline up to and including termination.

## **ARTICLE 31 WORKPLACE VIOLENCE**

### **Workplace Violence**

**Acts or threats of physical or verbal violence (including intimidation and/or harassment and/or coercion) which involve or affect the City of Clayton, its citizens, or employees which occur on City property or in the course of employment or provision of City-related services will not be tolerated. Such conduct may be subject to disciplinary action, up to and including termination and may be subject to criminal investigation.**

**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 employees and/or citizens. Examples of violence include, but are not limited to the following:**

- 1. All threats or acts of violence occurring on City of Clayton premises, regardless of the relationship between the City of Clayton and the parties involved in the incident.**
- 2. All threats or acts of violence occurring off City of Clayton premises involving someone who represents the City of Clayton.**
- 3. All threats or acts of violence occurring off the City of Clayton premises involving a City of Clayton employee if the threats or acts affect the legitimate interests of the City of Clayton.**
- 4. Any acts or threats resulting in the conviction of an employee or representative of the City of Clayton or of an individual performing services or volunteer work on a contractual 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 of Clayton.**
- 5. Specific examples of conduct, which may be considered threats or acts of violence include, but are not limited to:**
  - Physical assault (hitting, shoving, kicking or otherwise having unwelcome physical contact.)**
  - Threatening harm to individuals, their family, friends, associates or property.**
  - Verbal assault for the purposes of intimidation and/or coercion.**
  - The intentional destruction or threat of destruction of City of Clayton or personal property.**

**Upon witnessing a violent or potentially violent situation in the workplace, employees should immediately attend to their safety by leaving the area and reporting the situation as appropriate to a supervisor or HR Administrator, or if**

**deemed necessary, by calling 9-1-1. All reported incidents will be investigated, and the City of Clayton will actively intervene at any indication of a possibly hostile or violent situation.**