

# CHAPTER 27

## PERSONNEL ORDINANCE

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# PERSONNEL ORDINANCE

## 27.00 PREAMBLE

The purpose of this Chapter is to increase the general efficiency, to maintain existing harmonious relationships between the City of Middleton and its employees, and to promote the well-being and security of those employees. The Common Council of Middleton hereby adopts the following procedures to be followed in all future dealings with its employees:

- (1) The provisions of this Chapter shall apply to all City employees, Boards, Committees, Commissions and affiliates. If any portion of this Chapter conflicts with the working agreement between the City of Middleton and its negotiating units, it is null and void to that extent.
- (2) Provisions of the State Statutes, s. 62.13 and Chapter 43 as they pertain to the Police and Fire Departments and the Public Library respectively, shall take precedence over this Chapter.

## 27.01 POWERS AND DUTIES OF THE PERSONNEL COMMITTEE

- (1) The powers and duties of the Personnel Committee shall consist of the following:
  - (a) To administer the personnel ordinance;
  - (b) To be responsible for recommendation and implementation of all policy matters relating to personnel;
  - (c) To informally review the job performance of department heads on a periodic basis;
  - (d) To act as the representative of the municipality in collective bargaining negotiations with employee units and groups of employees, shall meet and confer with duly authorized representatives of said employee unions and groups at reasonable times with respect to wages, hours and conditions of employment with the intention of reaching an agreement, as well as to resolve questions arising under any existing agreement. The Committee, with the approval of the Common Council, may employ a qualified labor negotiator to assist it in carrying out its duties, as authorized by Wis. Stat. s. 111.70(5).

## 27.02 RESPONSIBILITIES OF THE PERSONNEL OFFICER

- (1) The Personnel Officer is authorized and directed to administer the regulations in the personnel ordinance.

In addition, the Personnel Officer will:

- (a) Supervise the proper execution of labor contracts with the City of Middleton;
- (b) Coordinate hiring procedures with department heads (advertisements, correspondence, etc.);
- (c) Establish and maintain official employee records (title, pay, vacation, sick leave, evaluations, commendations, health records, compensatory time and other relevant information);
- (d) Coordinate and provide administrative services for the administration of all ordinances and resolutions relating to personnel.

## 27.03 VACATION

### (1) Definition of Vacation Week

For non-represented employees, except field service crews and police officers holding the rank of sergeant or higher, not including the Chief of Police, who are permanent full time, a vacation day

consists of eight hours. For field service crews a vacation day shall be paid commensurately with the day on which the vacation hours are utilized (e.g., four (4) hours on a Friday). For the above-said police officers, vacations will be based on the work week in effect at the time the vacation is taken. For employees who are classified as permanent part time, vacations shall be proportionate to the number of hours per week worked by said employee as compared to a full time employee in the same department. (O1474,10/16/18)

**(2) Length of Vacation**

Employees shall earn annual paid vacation as follows:

(a) **Length of Vacation**

Employees shall earn annual paid vacation as follows:

<b>Years of Continuous Service Completed</b>	<b>Days of Vacation</b>
1st year through completion of 2 <sup>nd</sup> year of continuous service	12 days
After completion of 3rd year of continuous service	13 days
After completion of 4th year of continuous service	14 days
After completion of the 5th year through completion of the 8th year of continuous service	15 days
After completion of the 9th year of continuous service	18 days
After completion of the 10th year through completion of the 13th year of continuous service	20 days
After completion of the 14th year of continuous service	21 days
After completion of the 15th year of continuous service	24 days
After completion of the 16th year of continuous service	25 days
After completion of the 17th year of continuous service	26 days
After completion of the 18th year of continuous service and thereafter	27 days

- (b) For police officers who are removed from the collective bargaining unit by attaining the rank of sergeant, if vacation benefits under the collective bargaining agreement are more favorable, at the time of promotion or at any time thereafter while said officer holds a rank of sergeant or higher, not including the Chief of Police, vacation will be determined according to the collective bargaining agreement, otherwise, vacation shall be determined according to sub-section (a).

**(3) Carryover of Unused Vacation**

Employees shall be permitted to carry over vacation into the following year. Vacation balances in excess of 240 hours as of December 31, 2007 will be converted to its cash value and be paid to the employee. In subsequent years, vacation balances in excess of 240 hours as of December 31 will be forfeited. Carry over of vacation hours beyond 240 hours may be permitted by written approval from the Personnel Officer.

**(4) Basis for Vacation Pay**

Vacation pay shall be based upon the employee's earnings at the time the vacation period begins.

**(5) Vacation Usage**

Partial vacation day usage shall be permitted in no less than one (1) hour increments.

(O1474, 10/16/18)

## 27.24 DEFINITIONS

(1) Permanent Employment

For the purposes of this ordinance "permanent employment" is defined as follows: permanent employment is work in a permanent position in the civil service other than seasonal, temporary, provisional, emergency or prevailing rate, for full time or part time employment which requires the services of an employee without interruption for an indefinite period.

(2) Continuous Employment

For the purposes of this ordinance, "continuous employment" is interpreted to mean year round employment as evidenced by uninterrupted payment on the payroll. "Continuous employment" shall not be construed to be interrupted by absence of an employee while receiving from the City of Middleton Worker's Compensation payments or full salary in lieu thereof for temporary disability.

(3) Permanent Part-Time Employment

For the purpose of this ordinance, "permanent part time employee" is defined as an employee who has been certified to a permanent position, who has satisfactorily completed her or his probationary period and whose employment is continuous and is for a smaller number of hours in any weekly or semi monthly pay period than that established for full time employment in such class in the department in which the position is allocated.

(4) Seasonal Employment

A "seasonal appointment" is an appointment for employment for a period less than one (1) year, the need for which can be anticipated as likely to recur.

(5) Temporary Appointment

A "temporary appointment" is for employment for a period not to exceed six (6) months for which the need is important and urgent.

(6) Emergency Appointment

An "emergency appointment" is an appointment for employment for a period of not exceeding ten (10) days for work for which the need cannot be anticipated.

(7) Limited Term Employment

A "limited term employment" is an appointment for employment during the leave of absence of a permanent employee, or for the duration of a project which is not seasonal and has an established probable date of termination.

(8) Military Leave Replacement Appointment

A "military leave replacement appointment" is an appointment made for the duration of the leave of absence of civil service employees entering the military service under provision of federal and state laws requiring restoration of employment.

(9) Appointment to Acting Position

"Appointment to acting position:" any employee named by the Common Council or by the Mayor and approved by the Common Council to serve in an acting position shall be granted a 10% salary increase throughout the time the employee serves in that position. An employee may be appointed to an acting position because of the incumbent's resignation, extended sick leave, extended suspension, leave of absence, or for other reasons approved by the Common Council.

The acting appointment shall be a provisional one that is only effective until the usual selection process, as set forth in these ordinances, is implemented to replace the former incumbent. When this is accomplished, the employee filling the acting position shall be either terminated, if that employee was not an employee before said acting appointment, or returned to her or his former position at the former salary.

## **27.05 EQUAL OPPORTUNITY**

- (1) The City of Middleton is an equal opportunity employer. In accordance with state law we encourage and foster the employment of all persons regardless of their age, race, creed, color, sex, national origin, or ancestry. The City will also make every reasonable accommodation for individuals with disabilities.
- (2) The City of Middleton supports the equal treatment of employees in domestic partnerships and shall provide employee benefits for City employees in domestic partnerships that are equal to those benefits provided for similarly situated employees who are married. All City ordinances, contracts or policies related to the provision of employee benefits for City employees shall be interpreted to provide equal benefits to employees in domestic partnerships that are equal to those benefits provided for similarly situated employees who are married. For purposes of this section, "domestic partnership" shall have the meaning set forth in Wis. Stats. § 40.02(21d).

## **27.06 HOLIDAYS**

### **(1) List of Holidays**

The following are established as holidays for city employees:

- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Friday after Thanksgiving Day
- December 24
- December 25
- December 31
- Three (3) days for floating holidays to be taken on days selected by the employee and subject to approval of the department head. One of these floating holidays is designated to be in honor of Martin Luther King Jr.

### **(2) Compensation for Required Holiday Work**

In those cases where employees must perform required duty on the holidays listed above, they shall be compensated or granted time off at the rate currently in effect in the employee's division or department, such time off to be taken at a time which is agreeable to the employee and the department head.

### **(3) Compensation When Holiday Falls on Weekend**

When a holiday falls on Saturday or Sunday, the City may designate the preceding Friday or the following Monday as the designated holiday. In the event the preceding Friday or the following Monday is not so designated, the employee shall be given compensatory time off at a time to be mutually agreed upon between the employee and the department head.

### **(4) Compensation for Holidays for Shift Employees**

Holidays for shift employees will be paid at the normal hourly salary rate or at straight time, or an employee shall be given compensatory time off at a time to be mutually agreed upon between the employee and the department head, or her or his appointed representative.

## **(5) Compensation for Holidays for Field Service Crews**

Holidays, including floating holidays, will be paid at the crew employee's normal hourly straight time rate. For holidays, falling Monday through Thursday, crews shall receive nine (9) hours of holiday pay. For those holidays falling on a Friday, crews shall receive four (4) of holiday pay. (O1474, 10/16/18)

## **27.07 RESPONSIBILITY FOR REPORTING TO WORK**

- (1) All employees of the City of Middleton shall be expected to report to work during inclement weather, disasters, and other adverse conditions.
- (2) Employees unable to reach their work station because of inclement weather, disasters or other adverse situations may use vacation, floating holiday or compensatory time in lieu of a lost day of pay.
- (3) Employees engaged in work directly related to health, safety, and welfare of the community (i.e. Police, Street Maintenance, etc.) shall be expected to exhaust every effort in reporting to their work station at the appropriate time.

## **27.08 ABSENCE OF EMPLOYEES FROM DUTY**

### **(1) Sick Leave**

- (a) Sick leave shall include absence from duty because of illness, including but not limited to pregnancy and for visits to the doctor, dentist, or other recognized health care/ examinations; bodily injury, when not a Worker's Compensation case; exposure to contagious disease; and serious illness or death in the immediate family of the employee.
- (b) All permanent, full time employees, including those serving on probation, earn sick leave at the rate of one day per month. Permanent employees who work less than full time earn sick leave on a pro rate basis in accordance with the rate for a full time employee. Sick leave must be earned before it can be used and may not be anticipated. Sick leave shall be accumulated and credited to each employee. Sick leave accumulation shall not be capped.
- (c) At the request of the department head, an employee may be required to provide a medical certificate before being granted time off as sick leave.

### **(2) Abuse of Sick Leave**

- (a) Employees who abuse sick leave may be subject to disciplinary action. Specifically, whenever an employee establishes a pattern of use of sick leave which may be considered abusive, the supervisor shall counsel the employee about his or her sick leave habits and the City's expectation about attendance.
- (b) If such a pattern continues, the supervisor shall notify the employee in writing of the problem and require that future absences will require a medical certificate to verify illness of the employee or family member.

### **(3) Death in the Family**

Where there is a death in the immediate family of an employee – father, mother, wife, husband, son, daughter, brother or sister on an employee, said employee shall be granted up to five (5) days off without loss of pay and without charge to accrued sick leave or vacation of the employee.

Where there is a death in the extended family of an employee – the employee's father-in-law, mother-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, grandparents or grandchildren, aunt or uncle and applicable step relatives – said employee shall be granted up to three (3) days off without loss of pay and without charge to accrued sick leave or vacation of the employee.



In such circumstances, additional time off may be granted at the discretion of the Personnel Officer, and shall be chargeable to the accrued sick leave of the employee. Requests for additional time off shall be submitted through the department or division head to the Personnel Officer.

#### **(4) Leaves of Absence**

The City will comply with all requirements of the State and Federal Family and Medical Leave Act that apply to municipalities. In addition, department heads may grant leaves of absence without pay for personal reasons, as the Mayor grants such leave to the department heads and the City Administrator. Such leaves of absence will be limited to three (3) calendar days per year. Requests for leaves of absence without pay for three or less calendar days shall be made by written application and submitted at least two (2) working days prior to the anticipated leave. For requests for a longer leave of absence without pay, the employee shall request authorization from the Personnel Committee. Requests submitted to the Personnel Committee shall be made by written application upon recommendation of the Personnel Officer and department head, or upon recommendation by the Mayor, whichever is appropriate.

#### **(5) Military Leave**

- (a) The City shall comply with all applicable military leave and veterans reemployment laws and shall grant leaves of absence as appropriate under such laws. Employees that are aware of the need to take military leave shall inform their supervisor as soon as possible. Employees returning from military service that intend to exercise their reemployment rights shall notify the City within the applicable time period provided by applicable law following their service.
- (b) The City shall provide limited differential pay to certain employees ordered to service in the U.S. Armed Forces or National Guard. Non-probationary officials and employees of the City, and employees certified to permanent positions that have served at least 3 months on their probationary period are eligible for such pay. Individuals employed on a temporary, emergency, and/or limited term basis, are not eligible for differential pay. If the pay received by the eligible employee for the military service is less than the pay the employee would have received from the City during such period, the City shall pay the difference to the employee. Differential pay shall be paid for no more than two weeks of service time per calendar year.

#### **(6) Jury Service**

If employees of the City are absent because of jury duty where the salary paid for such jury duty is less than the salary paid by the City for such employee, the City shall reimburse said employee for the loss occasioned by such difference in pay. The leave granted by this section is in addition to all other leaves granted or authorized by any other provisions of City ordinances and the time of the leave granted under this section shall not be deemed a part of any leave granted or authorized by any other provisions of city ordinances. For the purpose of determining other fringe benefits such as sick leave and vacation time; the status of the employee shall be considered as though not interrupted by such jury duty. The Personnel Officer should be notified of employees granted leave for jury duty at the time such leave is granted.

#### **(7) Subpoenaed Witness**

If any employee is subpoenaed to testify in a matter directly related to City employment, the employee shall be given reasonable time to do so without loss of pay. If the employee is subpoenaed to testify in a matter not directly related to City employment, the employee may use vacation, accumulated compensatory time, holiday time or leave without pay to cover the absence.

## **(8) Maternity Leave**

- (a) Maternity leaves up to ninety (90) days shall be granted to eligible employees on permanent status who submit a written notice to the department head at least thirty (30) days prior to the anticipated departure date.
- (b) The department head shall forward the notice to the Personnel Officer.
- (c) Up to an additional three months can be approved by the Common Council upon recommendation of the Personnel Committee, but in no case shall the total period of leave exceed six months.
- (d) All periods of leave related to maternity leave shall be leave of absence without pay. Employees may use earned sick leave, vacation and/or holiday time and need not exhaust all reimbursable leave provided the original written notice for leave reserves such leave time.
- (e) Employees on leave of absence without pay may continue to participate in the group insurance programs by paying the applicable pro rate premiums to the City Treasurer.

## **27.09 COMPENSATORY TIME**

### **(1) Non-FLSA Exempt Personnel**

Non-FLSA-exempt personnel who work in excess of 40 hours per week shall be compensated for such work at the rate of time and one half of their regular hourly rate. Such work must be approved in advance, in writing, by the department head or an individual designated to make such an approval. When approved in advance, non-exempt employees may elect to accrue compensatory time in lieu of overtime. Compensatory time will be required to be used in the same calendar year that it is accrued, except that 24 hours may be carried forward to the next calendar year. Unused compensatory time will be paid out on the employee's first paycheck of the next calendar year. Unapproved overtime will not be eligible for compensatory time, and may be subject to discipline.

In lieu of overtime or compensatory time, an employee, with department head approval, may elect to take flex time within the same period in which overtime would have accrued. However, such flex time shall be at straight time rates, ie., on a one-to-one ratio. Such flex time must be used in the same period that it is accrued. If it is not, such time will be treated as overtime and either paid out or accrued as compensatory time at the discretion of the employee at a rate of time and one half.

### **(2) FLSA Exempt Personnel**

Employees, including the City Administrator, Department Heads, Assistant Department Heads, Police Department Captains, the Assessor, Accountant/Treasurer, Forester/Horticulturalist, Librarian II position, and Assistant Director of Community Development, are administrative employees and therefore exempt under the Fair Labor Standards Act from overtime regulations. As such, these employees do not receive overtime compensation. When such individuals work excessive hours in their official capacity, they may take off time or observe a more flexible working hours at the discretion and with the written approval of the Mayor or the Mayor's designee.

## **27.10 HOURS OF WORK**

### **(1) Standard Work Week**

The standard work day for employees other than shift employees and field service crews shall be eight (8) consecutive hours, not including any period established by the City as a lunch period. The standard work week shall consist of five eight hour days, Monday through Friday.

Field service crews shall have a standard work week consisting of four (4) nine (9) hour days, Monday through Thursday, and a four (4) hour day on Friday. Crews shall have a 30 minute paid lunch period Monday through Thursday.

## **(2) Temporary Changes in Standard Work Week**

Standard work day and work week may be temporarily changed by the department heads, subject to the approval of the Mayor, with written notification to the Common Council.

### **27.11 HIRING PROCEDURES**

#### **(1) Hiring Procedures for City Administrator and Department Heads**

In the event that the City Administrator or a department head resigns (with the exception of the Police Chief and the Library Director), the Personnel Committee shall, with the aid of citizen members, recommend to the Common Council the successor for said position. The Personnel Committee will recommend to the Mayor the specific areas of expertise that will be necessary to best assist the Personnel Committee in their selection process. The Mayor will then appoint qualified citizens to participate with the Personnel Committee in the interviewing process. The screening committee for department heads shall also include one member from the appropriate supervising committee or commission. However, all final recommendations to the Common Council will be made exclusively by the Personnel Committee. A two thirds (2/3) vote of the Common Council is required to confirm the appointee. All department heads will be responsible for interviewing and filling any vacancy that occurs within their department.

#### **(2) Background Investigation**

Every new employee and EMS volunteer of the City shall have a routine background check made by the Police Department. For the purposes of this ordinance, the Fire Department personnel are considered employees of the Fire District, not the City. The Police Department shall conduct an investigation of the applicant including but not limited to requesting information from the State, surrounding municipalities and/or any community where the applicant has previously resided concerning the applicant's conviction record. This will be done before appointment and such report shall become a part of the individual's personnel file. The personal background and criminal and/or civil action data will be evaluated in relation to the applicant's perceived ability to perform the duties and responsibilities of the specific position for which he/she applied.

### **27.12 RESIDENCE REQUIREMENT**

- (1)** It is the policy of the City of Middleton to encourage all employees to be residents of the City.

### **27.13 PROBATIONARY PERIOD**

#### **(1) General Rules**

All new City of Middleton employees serve at least a six month probationary period, except department heads and the City Administrator who serve one year probation, and police officers who serve an 18 month probationary period as established by the Police Commission.

#### **(2) Insurance Benefits**

Probationary employees shall be entitled to all insurance benefits as provided in this ordinance after one (1) full calendar month of employment.

### **(3) Original Hire Extensions**

An employee below the level of department head might be hired with a probationary period longer than six (6) months if it is determined by the Personnel Officer that the longer period is necessary, but in no case longer than one (1) year.

### **(4) Training Program Hires**

If an employee is hired on a training program, the employee is on probation for the length of the contract plus six (6) months following completion of the training program.

### **(5) Extensions**

The Mayor or a department head may request a probationary period be extended up to an additional six (6) months, when circumstances justify such an extension.

### **(6) Evaluation Procedure of Probationary Period**

Supervisors will evaluate employee's work performance, in writing, using the standards established for the position and the department. This will be accomplished at least once during and at the end of the probationary period.

### **(7) Dismissal During Probationary Period**

In the event an employee is dismissed, during his or her probationary period, there shall be no right to appeal the dismissal.

## **27.14 DEPARTMENT HEADS (APPOINTMENT/DISMISSAL)**

The City Administrator or a department head may be dismissed at any time during a probationary period by two thirds (2/3) vote of the Common Council upon recommendation of the Personnel Committee. Prior to the completion of the probationary period, the Common Council shall review the Personnel Committee's recommendation regarding permanent status for the employee. A member of the Personnel Committee shall be appointed by the Chair to be responsible for compiling written evaluations of the job performance, suitability, or any other factors which seem appropriate for the probationary employee. A two thirds (2/3) vote of the Common Council is required to give the employee a permanent appointment.

## **27.15 EMPLOYEE PERFORMANCE AND DEVELOPMENT REPORT**

Once a year employees shall receive a written evaluation of their job performance. The supervisor will evaluate the employee's work performance in terms of standards established for the position and department using an evaluation form approved by the Personnel Committee. The supervisor shall discuss with the employee areas that need improvement or that have shown improvement. The employee will receive a signed copy of the report. Any employee disagreeing with a supervisor's written evaluation shall have the right to file a written statement with the Personnel Committee for inclusion in the employee's permanent personnel file.

## **27.16 OUTSIDE EMPLOYMENT**

### **(1) Permanent Full-Time Employees**

Permanent full time employees may engage in outside employment as long as written approval has been granted by the department head and such approval is filed with the Personnel Officer. No permanent full time employee shall receive compensation from the City for other than the employee's full time position.

## **(2) Permanent Part-Time Employees**

Permanent part time employees should advise their department heads of other employment. All City employees who have employment in addition to the City positions are expected to perform their official duties in an efficient and timely manner. If outside employment results in unacceptable working hours or on the job performance, the employee may be asked to relinquish such employment. Where there may be a question of a conflict of interest, the department head shall bring it to the attention of the Personnel Committee for a determination.

## **27.17 RESIGNATION AND RETIREMENT**

### **(1) Resignation**

The City Administrator and department heads resigning shall submit a letter to the Mayor at least 30 days prior to such resignation. All other employees shall send a letter to the department head and the Personnel Officer at least two weeks prior to such resignation. A letter of resignation from the City Administrator or department head shall be acted upon by the Mayor who in turn will inform the Personnel Committee. Department heads shall act upon letters of resignation from employees within their departments.

### **(2) Retirement**

Employees desiring to retire shall submit a letter to their department head at least sixty (60) days prior to such retirement.

## **27.19 LAYOFF**

In the event that a department head has to lay off employee(s), the employee(s) with the least seniority in that classification will be laid off first. Any employee affected by such layoff shall be given notice not less than fifteen (15) calendar days prior to the effective date. Recall from the layoff shall be by seniority. Recall rights shall extend for a period of eighteen (18) months. At the end of that period an employee forfeits all rights to recall. Recall rights may be exercised for the same classification or a lower classification for which an employee is qualified. Refusal or acceptance of a lower classification does not void recall rights to the original classification; however, refusal to accept recall to their last classification precludes any further recall.

## **27.20 SERVERANCE PAY**

When an employee retires or terminates service with the City, the employee shall receive pay on termination date for all accumulated unused vacation. Upon the death of an employee, the above benefit shall be paid to the estate or the designee.

## **27.21 HARASSMENT; SEXUAL HARRASSMENT**

- (1)** The City of Middleton is committed to maintaining a work environment that is free from discrimination and unlawful harassment. All City employees are required to be familiar with and comply with City policy prohibiting sexual and other unlawful harassment in the workplace.
  - (a)** Prohibited sexual harassment includes, but is not limited to: unsolicited, unwelcome sexual advances or requests for sexual favors; unsolicited unwelcome verbal or physical conduct of a sexual nature making submission to (or rejection of) such conduct a factor in employment decisions affecting the employee; any employee conduct unreasonably interfering with another's work performance by creating an intimidating, hostile or offensive work environment; and/or permission of such conduct to interfere with an employee's work performance as to create a hostile, intimidating or offensive work environment.

- (b) Prohibited other unlawful harassment consists of unwelcome, conduct, whether verbal, physical or visual, that is based upon a person's status, such as race, color, ancestry, religion, national origin, age, medical condition, disability, marital status, veteran status, citizenship status or other protected group status.
- (2) An employee who believes that he or she has been the subject of sexual or other unlawful harassment should report the matter as soon as possible to his or her immediate supervisor, who will then undertake an investigation to determine the facts. If the employee believes that a supervisor is involved in the sexual or other unlawful harassment, the employee should report the matter as soon as possible to the Personnel Officer, who will then undertake an investigation to determine the facts. If the employee believes the Personnel Officer is involved in sexual or other unlawful harassment, the employee should report the matter as soon as possible to the City Personnel Committee, which will then undertake an investigation to determine the facts.
- (3) Following the investigation, any employee found to have engaged in sexual or other unlawful harassment of another City employee shall be subject to discipline as set forth in Section 27. 22.

## **27.22 DISCIPLINE AND DISCHARGE**

### **(1) Reasons and Procedures for Discipline and Discharge**

If the Mayor, the Personnel Officer or a department head deems it necessary to take disciplinary action, such information will be given to the employee in writing and will become part of the employee's personnel file. The following are examples of causes for discharge, suspension, or demotion by the Mayor, the Personnel Officer or a department head:

- (a) Drinking on the job or arriving on the job under the influence of intoxicants or dangerous drugs.
- (b) Failure to follow orders of one's supervisor or department head.
- (c) Being absent from work without permission or failure to report to the supervisor or department head when one is absent.
- (d) Being habitually absent or tardy.
- (e) Failure to perform work in a work like, or in an efficient manner.
- (f) Upon conviction of a felony having a relationship or detrimental effect upon the nature and performance of the employment. (g) Falsification of any records required by the City and of the City by contract or any other governmental agency.
- (g) Violation of established work rules and City ordinance directly related to employment.
- (h) Insubordination.
- (i) Any other conduct traditionally considered cause.

### **(2) Access to Personnel Files**

Every employee shall have access to his or her own personnel file at reasonable times during regular working hours upon written notice to the Personnel Officer.

City Employees may submit a written request to inspect all or any part of the documents contained in their personnel file, or which have been used in determining the employees qualifications for employment, promotions, transfers, additional compensation, termination or other disciplinary actions or any medical records contained in their personnel file.

The Personnel Officer shall provide the employee with the opportunity to inspect his/her records within seven working days after making the employee submit a request for inspection. The time and location of the inspection will be set at a mutually convenient time for both the employer and the employee.

## **27.23 GRIEVANCE PROCEDURE**

### **(1) Purpose**

This grievance policy is intended to provide each employee with an opportunity to address concerns they may have regarding discipline, termination or matters of workplace safety. However, the City expects employees and its managers to exercise all reasonable efforts to resolve any questions, problems or misunderstandings prior to utilizing this grievance procedure.

Except as to employees subject to contract, or subject to statutory dispute resolution procedures, this policy represents the exclusive procedure for filing and hearing grievances by employees of the City. This procedure does not replace or supersede any statutory provision which may be applicable to an employee's employment with the City. This procedure supersedes any other grievance procedure in place for non-represented employees.

This grievance procedure may be modified or eliminated by the City at any time, with or without prior notice. This policy is not a guaranty of employment, a guaranty of any rights or benefits, and does not create or grant employees a property interest in their employment or tenure rights of any kind and does not constitute a contract of employment, either expressed or implied. All employees of the City remain at-will employees unless otherwise designated in a specific contract of employment. The City may terminate its employment relationship at any time, with or without reason, unless specifically bound by such an employment contract.

### **(2) Applicability**

This grievance procedure is available to all employees of the City, except employees subject to collective bargaining agreements, statutory or political appointees, elected officials, limited term employees, seasonal employees or independent contractors. All other employees may use this procedure to address concerns regarding discipline decisions, employee terminations, or issues of workplace safety. However, the following matters are not subject to this grievance review procedure:

- (a) Temporary Layoffs, including general workforce reduction, furloughs, or other reductions in workforce;
- (b) Non-disciplinary job transfers or demotions;
- (c) Performance evaluations or reviews;
- (d) Corrective counseling and warnings, including both oral and written reprimands;
- (e) Administrative suspensions with or without pay, during any employment related investigation;
- (f) Non-disciplinary wage, benefit or salary adjustments;
- (g) City actions or inactions with respect to any other employee; and
- (h) The manner in which work is to be performed, except in so far as it implicates a workplace safety issue.

The City's rules or policies are neither invalidated nor subject to question on the basis that they may have been enforced selectively, inconsistently, sporadically or arbitrarily. A rule or standard or policy, is not waived despite its non-enforcement or its inconsistent enforcement. Further, the City remains free to modify or repeal any policy or rule after a grievance decision even if the effect of the City's action is to overturn a grievance decision. Grievance decisions shall not have any precedential effect.

### **(3) Appeal Procedure**

#### **(a) General Procedures**

Any complaint or grievance which is not timely filed shall be barred. The term "days" as used in this procedure means working days, which are defined as Monday through Friday, excluding Saturdays, Sundays and observed holidays. Employee's time off which is

taken with available paid time or unpaid time shall be considered as working days for the purposes of this policy. A grievance, a request for a hearing' or a request for appeal, is considered timely if received by the specified department or individual listed in this procedure between the hours of 8:00 a.m. and 4:30 p.m. on the due date. Electronic filings, including e-mail, shall not be recognized as a form of filing. The employee and employer may mutually agree, in writing, to waive any step to facilitate or expedite the resolution of the grievance.

In the event a grievance is not answered by the employer within the time limit set forth in this procedure, the employee may proceed to the next available step. Any issues involving the timeliness of a grievance shall be resolved by the Personnel Officer.

(b) Form of Grievance

All grievances shall be made in writing, and shall contain the name of the grievant, a clear statement of the grievance, the issues involved, the date on which the incident took place, the remedy requested, and shall be signed by the grievant. In the event of a grievance, the employee shall perform his or her assigned work task and grieve the complaint during a break or other non-work time.

(c) Steps

Grievances shall be processed in the following manner:

1. Employee shall take the grievance up orally with their supervisor within five (5) days after being notified of a disciplinary action; termination; or after observing, or having actual reasonable knowledge of a workplace safety issue. The supervisor shall attempt to make a mutually satisfactory adjustment or resolution of the matter, and in any event shall be required to give a written answer within ten (10) days.
2. If the employee is dissatisfied with the written response to step one above, the employee may file a written grievance as described above and may present it to the employee's Department Head. Such a grievance shall be presented no later than the (10) days after receipt of the supervisor's answer. The Department Head shall have ten (10) days to respond and such response shall be in writing.
3. If the employee is dissatisfied with the written response to step two above, the employee may file a written grievance as described above and may present it to the Personnel Officer. Such a grievance shall be presented no later than the (10) days after receipt of the Department Head's answer. The Personnel Officer shall have ten (10) days to respond and such response shall be in writing.
4. If the employee is dissatisfied with the written response of the Personnel Officer, the employee may file a request with the Personnel Officer for the appointment of an impartial hearing officer to be appointed by the City Council. Within five (5) days of the filing of such request, the Personnel Officer shall contact an impartial hearing officer and shall arrange for a hearing with the employee and any other person deemed necessary for the review of the subject of the grievance request. The hearing shall be held as soon as practical but in all cases within thirty (30) days of the receipt of this step 3 unless the parties mutually agree otherwise.

The actions or omissions of the City, its supervisors or managers, shall be presumed to be valid. The hearing officer shall not substitute their opinion or judgment as to matters before them, and their sole authority shall be to determine whether or not the City, through its supervisors, managers, the



Personnel Officer, or its elected officials, acted in an unreasonable, arbitrary or capricious manner. The grievant shall have the burden of proof to support their alleged grievance. Only matters raised in the grievance shall be heard by the hearing officer. The hearing officer shall not have the authority to issue make whole orders or to implement any specific remedy or obligate the City in any fashion, but may make any recommendation they feel appropriate.

Within twenty (20) days of any hearing held under step 4, the impartial hearing officer shall prepare and file with the Personnel Officer, a written decision regarding the matter. A copy of the decision shall also be placed in the employee's personnel file.

5. Either the employee or the Personnel Officer may file a written request for an appeal to the City Council within ten (10) days of the receipt of the hearing officer's decision. Upon the receipt of such a request, the City Council shall schedule a meeting as soon as practical to consider the matter.

The City Council may request testimony of specific individuals if it deems it necessary to review the matter fully. They may also request that the parties supplement the record, or they may consider the matter solely on the record before it. The City Council may sustain, deny, or modify the recommendation of the impartial hearing officer.

All decisions of the City Council involving the grievance shall be by simple majority vote and shall be in writing and filed with the Personnel Officer's office within five (5) days of the date of the final decision. A copy of the final decision shall be delivered to the grievant and placed in the employee's personnel file. The City Council's decision is final and is not subject to further review.

## **27.24 UNUSED SICK LEAVE**

### Employees Hired prior to July 12, 2013

- (1) Employees hired prior to July 12, 2013, who retire or who are disabled and eligible to receive Social Security benefits or Wisconsin Retirement benefits shall receive the equivalent value of the accumulated sick leave credits. These funds, which are equal to the unused hours of sick leave multiplied by the employee's hourly salary at the time of retirement or disability will be placed in an escrow account and will be utilized to pay the full premium of his/her Hospital and Surgical Care Insurance or Medicare Supplement, and Group Life Insurance premiums until such time as the employee's funds are exhausted. Upon a current or former employee's death, unused sick leave shall be converted as stated above to the employee's spouse and/or dependents under the rules of the City's insurance carrier.
- (2) Any employee with at least 10 years of service with the City of Middleton and a minimum unused sick leave balance of at least 480 hours who leaves employment voluntarily but who does not meet the criteria described in paragraph 1 above, shall be entitled to receive fifty percent (50%) of his or her accumulated unused sick leave hours. These hours shall be converted to funds in an amount equal to the number of such hours multiplied by the employee's hourly wage rate in effect at the time of departure. At the employee's request, these funds may be placed monthly into either the employee's Voluntary Employee Beneficiary Association account, or paid directly to the employee's health or dental insurance carrier in order to pay the full monthly cost of his or her health or dental insurance premiums, until such time that the funds have been exhausted.

**Employees Hired on or after to July 12, 2013**

- (3) Employees hired on or after July 12, 2013 who retire or who are disabled and eligible to receive Social Security benefits or Wisconsin Retirement benefits shall receive a maximum of 1,040 hours in accumulated sick leave credits. These credits, which are equal to the unused hours, up to a maximum of 1,040 of sick leave multiplied by the average employee’s hourly wage throughout the employee’s City employment until retirement or disability will be placed in an escrow account and will be utilized to pay the full premium of the employee’s Hospital and Surgical Care Insurance or Medicare Supplement, and Group Life Insurance premiums until such time as the employee’s escrow account balance is exhausted. Upon a current or former employee’s death, unused sick leave shall be converted as stated above and credited to the employee’s spouse and/or dependents under the rules of the City’s insurance carrier.

The following is an example of how the “average employee’s hourly wage throughout his/her employment” would be calculated:

Year 1	\$15/hr
Year 2	\$16/hr
Year 3	\$17/hr
Year 4	\$18/hr
Year 5	\$19/hr
Average	\$17/hr

- (4) Any employee with at least 10 years of service with the City of Middleton and a minimum unused sick leave balance of at least 480 hours who leaves employment voluntarily but who does not meet the criteria described in paragraph 3 above, shall be entitled to receive fifty percent (50%) of their accumulated unused sick leave hours, up to a maximum of 520 hours using the calculation of a maximum 1,040 hours x 50%. These hours shall be converted to funds in an amount equal to the number of such hours multiplied by the average employee’s hourly salary throughout his/her employment tenure. At the employee’s request, these funds may be placed monthly into either the employee’s Voluntary Employee Beneficiary Association account, or paid directly to the employee’s health or dental insurance carrier in order to pay the full monthly cost of the employee’s health or dental insurance premiums, until such time that the escrow account balance is exhausted.

**27.25 LONGEVITY**

Each non-represented employee shall receive longevity pay annually according to the following schedule:

After three (3) years of employment	1% of base pay, annually
After three (7) years of employment	2% of base pay, annually
After three (11) years of employment	3% of base pay, annually
After three (15) years of employment	4% of base pay, annually
After three (19) years of employment	5% of base pay, annually
After three (23) years of employment	6% of base pay, annually

The longevity pay shall be effective on the payday closest to the first of December.

Employees who retire and are eligible to receive benefits under the Wisconsin Retirement System shall receive longevity payment on a pro-rata basis at the time of retirement.

## **27.26 REIMBURSEMENT RATE**

Any employee required to use his/her own automobile in the performance of his/her duties for the city shall be reimbursed at the rate established by the Internal Revenue Service, or the current reimbursement rate adopted by the Common Council, whichever is greater.

## **27.27 HEALTH INSURANCE**

### **(1) Health Insurance Provided**

The City shall provide health insurance to all eligible Employees through the Wisconsin Public Employer Group Health Insurance Plan or any other carrier that it deems appropriate, unless otherwise provided by collective bargaining agreement or amendment to this ordinance.

### **(2) Contribution**

- (a) Effective January 1, 2012, the City of Middleton shall make the maximum allowable monthly premium contribution as established by the State of Wisconsin ETF Group Insurance Board, on behalf of its enrolled employees, for the particular plan in which an Employee is enrolled, for each the Employee and their dependents, if any. The balance of any monthly premiums shall be paid by the Employee by payroll deduction.
- (b) Contributions by the City at the premium rates established in sub (a) supra, shall continue so long as the City participates in the State of Wisconsin Group Health Insurance Program. Contracts with Labor Units which contain different premium provisions will be honored through the termination of said contract.

### **(3) Retired Employees**

Employees retiring shall have the opportunity to continue, at the employee's expense and with the assistance of health insurance premium credits, the present health and accident plan at the group rate, if and to the extent the carrier permits. In addition, the eligible employee's surviving insured dependents shall have the opportunity to use the health insurance premium credits for the purchase of health insurance benefits.

### **(4) Unpaid Medical Leaves of Absence**

When a permanent employee is taking an approved, unpaid medical leave of absence beyond approved FMLA leave, the City will continue to provide, and pay the City portion of the employee's health insurance for up to three (3) months. The City may request the employee to have a medical evaluation performed by a doctor chosen by the City.

If the approved unpaid medical leave goes beyond three (3) months, as stated above, health insurance will continue to be offered as required in the Health Care Reform Act.

For the purposes of this benefit, a permanent employee is defined as an employee who has been hired for non-seasonal employment and works thirty (30) hours or more per week.