

AN ORDINANCE REPEALING AND REPLACING CODIFIED ORDINANCE CHAPTER 260, EMPLOYEES GENERALLY AND DECLARING AN EMERGENCY.

WHEREAS, the HR Director and Human Resources Committee recommended amending Codified Ordinance Chapter 260 to update the City's terms and conditions of public employment; and

WHEREAS, Council coming now to consider said recommendation approves it in full.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Codified Ordinance Section 260 is hereby repealed and replaced with the language attached hereto.

Section No. 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees which resulted in such formal actions, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 3: That this Ordinance is hereby declared to be an emergency measure to provide updated terms and conditions for employment, thus for the health, safety, and welfare of the residents of Avon Lake. Therefore, this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

PASSED: 7/11/2022

/s/ Martin E. O'Donnell

President of Council

POSTED: 7/15/2022

APPROVED: 7/12/2022

ATTEST: /s/ Valerie E. Rosmarin
Clerk of Council

/s/ Gregory J. Zilka
Mayor

CHAPTER 260

Employees Generally

260.001 PURPOSE AND INTENT.

Unless otherwise specifically stated, the sections in this chapter shall be construed so as to be applicable solely to those City employees who may be specifically designated therein and who are not included in a collective bargaining unit and who receive no benefit from any collective bargaining agreement between the City of Avon Lake and an employee organization. At the sole discretion of Council, sections of this chapter may provide for terms and conditions of public employment not otherwise provided for in any collective bargaining agreement which may be applicable to any specified City employee or employees as designated in any such section.

260.01 BONDS.

The following officers and employees of the City shall, before entering upon the duties of their respective offices, give a good and sufficient surety bond to the City, to the satisfaction of and subject to the approval of Council, and conditioned upon the faithful performance and discharge of their respective duties, handling of firearms and for proper application and payment of all money or property coming into their hands by virtue of their offices, in the following amounts:

City Officer or Employee	Surety Bond
Mayor	\$ 50,000
Finance Director	\$200,000
Chief of Police	\$ 25,000
Building Inspector	\$ 25,000
Municipal Court Clerk	\$ 25,000
Municipal Court Bailiff	\$ 25,000
Municipal Deputy Court Clerks and Bailiffs	\$ 25,000
Board of Municipal Utilities employees having moneys belonging to the Board in their custody and control	\$ 25,000
All other officers and employees of the City or any department thereof, having moneys belonging to the funds of the City or any department thereof in their possession or control as a customary incident of their office or employment	\$5,000

Council may permit and authorize blanket bonds from any duly authorized corporate surety, within the limitations of the City Charter and Ohio R.C. 3.06.

Whenever an officer or employee of the City is required to furnish bond to ensure faithful performance of the duties of his or /her/their office or employment, the bond premium or cost of the bond shall be paid from the general funds of the City if he or/ she/they is an officer or employee of the City generally, or from the funds of the Board of Municipal Utilities if he/ or she/they is an officer or employee of the Board. Any such bonds furnished to the City shall be in the custody of the Director of Finance, except that the bond of the Director of Finance shall be in the custody of the Mayor. Proof of bonding shall be forwarded to the Clerk of Council.

260.02 VACATIONS.

(a) All regular full-time non-bargaining employees of the City who have been in the continuous employment of the City for twelve months or more preceding January 1, whether employed on a monthly salary basis or at an hourly rate of pay, shall be allowed an annual vacation, with pay, of two normal work weeks. All regular full-time employees who have been employed for less than twelve months preceding January 1, will receive one full day of vacation for each full month of employment during the previous year up to a maximum of two normal work weeks.

(b) The basis of computing the compensation of an employee who works on an hourly rate of pay, for the period of his/her/their respective vacation, shall be the normal straight time earnings of the particular employee working a full week at the hourly rate fixed for his/her/their employment in the particular City department where employed.

(c) Each person having charge of a department of the City wherein there are other employees under the supervision of such person, shall arrange a schedule of vacations as nearly as possible to conform with the proper functioning of the particular department, as well as to suit the convenience of the respective employees. In any event, vacations shall be taken subject to the review of such determination by the Mayor or the Board of Municipal Utilities.

(d) All full-time (2,080 hours), permanent, non-bargaining employees who have been in the employment of the City shall be granted vacation as follows (with continuous service):

- (1) After their 5-year anniversary = 3 weeks' vacation;
- (2) After their 10-year anniversary = 4 weeks' vacation;
- (3) After their 20-year anniversary = 5 weeks' vacation.

All earned vacation shall become effective January 1 after their attainment of the employee's date of hire.

(e) Vacations may not be accumulated and shall be taken not later than the end of the subsequent year of service for which the vacation was earned, unless an extension is authorized by Council.

(f) A non-bargaining employee whose employment with the City is terminated, or upon retirement, shall be paid for vacation time earned the previous year but not yet taken, and for vacation time earned but not yet taken in the year of termination or retirement. Compensation shall be calculated by dividing the employee's bi-weekly wage by the number of hours normally worked bi-weekly, times the unused hours of vacation, provided that the employee has twelve months or more continuous service.

(g) The payment of any vacation allowance for a deceased employee shall be calculated pursuant to subsection (f) above and shall be paid to the next of kin or to the executor or administrator of the estate of such a deceased employee.

(h) In the year of the fifth, tenth and twentieth anniversary date of employment, and only in those years, full-time non-bargaining employees not covered by a collective bargaining agreement shall be granted one additional day of paid vacation for each two full months of employment between their anniversary date and December 31. The employee shall be allowed use of this prorated additional paid vacation time only on or after his/her/their employment anniversary date. This pro rata paid vacation shall be taken prior to December 31 and cannot be carried over into the next year.

Full-time non-bargaining employees shall be eligible to "cash-in" up to ten vacation days (80 hours) per year at the employees' appropriate hourly rate. Reimbursement for unused vacation days shall be in full day (eight hours) or half day (four hours) increments. The employee shall receive payment for the "cashed-in" vacation days on the next payday after "cashing-out".

(i) Pursuant to the current standing provisions in the multiple CBA's currently in effect the following shall apply to non-bargaining, full-time, employees:

(1) Non-bargaining full-time employees who have had prior service (full- or part- time) with the City of Avon Lake and/or any other municipal agency(ies) with the State of Ohio, shall be credited such time for the purposes of calculating vacation time; such calculations shall equal the provisions of the current Collective Bargaining Agreements. Such credit shall be restricted to the past ten years as outlined union CBA.

(2) Non-bargaining, full-time employees, who have served in any branch of the United States military and who have received an honorable discharge, shall receive credit for vacation time calculated (above). Active-duty time will be used for the basis of such calculations and such time shall be restricted to the past ten years in keeping with the intent of division (a) above. Active duty will be defined for these purposes as time listed on the official DD 214 discharge paperwork itemized as "active duty."

(3) Additional credit for prior municipal (Ohio) and/or military service shall not have a greater benefit than current unionized employees.

260.03 SICK LEAVE.

Sick leave shall be provided to each full-time non-bargaining employee in accordance with State law and this section.

(a) Sick Leave Accumulation.

(1) Each full-time non-bargaining employee shall be advanced five (40 hours) days of immediate sick leave credit which will be charged against the first four months of his/her/their accumulation of sick leave. Sick leave shall be accumulated at the 4.6 hours for every 80 hours worked.

(2) The accumulation of sick leave is unlimited.

(3) Any full-time non-bargaining employee who has been employed with another public agency or political subdivision shall be credited with the unused balance of his/her/their accumulated sick leave from such public agency or subdivision with written documentation.

(4) The previously accumulated sick leave of a full-time non-bargaining employee who has been separated from public service shall be placed to his/her/their credit upon his/her/their reemployment, provided that his/her/their employment takes place within ten years of the date on which the employee was last terminated from public service, unless the employee has elected to receive termination pay for such sick leave.

(b) Granting of Sick Leave.

(1) Each non-bargaining employee shall furnish a written and signed statement on forms prescribed by department head and/or HR Department to justify the use of sick leave. Such form will be made available by the department head and shall be submitted to the department head when completed by the employee.

(2) Sick leave may be used due to personal illness, pregnancy, injury, and exposure to contagious disease which could be communicated to others, and for absence due to illness, injury or death in the employee's immediate family. As used in this paragraph, "immediate family" means the father, mother, brother, sister, husband, wife, child, grandparent of the employee and/or his/her/their spouse, grandchild, step parent, step child, step brother, and step sister. It does not provide extended leave for chronic illness within the immediate family; those cases fall under FMLA provisions.

(3) If medical attention is required, or if the absence exceeds five consecutive days, a certificate stating the nature of the illness from a licensed physician may be required to justify the use of sick leave. The appointing authority or his/her/their designee in the employee's department may request such certificate.

(4) In the case of pregnancy and/or childbirth of the employee and/or spouse, the employee may utilize a maximum of five days without a certificate from a licensed obstetrician gynecologist, midwife, obstetric or gynecological nurse practitioner. If the employee, spouse, or child develops medical complications associated with the pregnancy, childbirth, or recovery from said pregnancy, additional days of sick leave may be used upon the filing of a medical excuse signed by a licensed obstetrician, gynecologist, midwife, obstetric or gynecological nurse practitioner that details the nature of the illness, complications or incapacitation associated with said pregnancy and/or birth. Medical information provided by the employee will be consistent with state and federal laws concerning personal medical information.

(c) Payment for Unused Sick Leave Upon Retirement.

(1) A full-time non-bargaining employee, at the time of acceptance for retirement by the Public Employees Retirement System, the Police Pension, or the Fire Pension, if he/she/they has/have ten or more years of full-time service as an employee of the City, and if his/her/their retirement is within ninety days of his/her/their last day of service with the City, may elect to receive termination pay.

(2) Each full-time non-bargaining employee who qualifies shall receive fifty percent of his/her/their accumulated sick leave credit up to a maximum of 120 days. Payment shall be based on the daily rate of pay at the time of retirement and shall not exceed sixty days (480 hours) of accumulated unused sick leave.

(3) Each full-time non-bargaining unit employee in the Municipal Utilities Department who qualifies shall receive 50% of his/her/their accumulated sick leave credit up to a maximum of 960 hours. Payment shall be based on his/her/their daily rate of pay at the time of retirement and shall not exceed 480 hours of accumulated unused sick leave.

(4) Payment under this subsection shall eliminate all sick leave credit.

(5) No employee shall receive more than one such payment.

(6) If termination is because of death, such remaining accumulated sick leave pay shall be paid to the surviving spouse or dependent children in the order named or to the executor or administrator of the estate.

(d) Employer Unused Sick Leave Buy Back.

(1) Any full-time non-bargaining employee may elect each year to have the employer buyback a maximum of one hundred and twenty hours of sick time for the current year. A written request must be completed by the employee to do so and be submitted to the employer no later than November 30 of the

year of the actual conversion The employee shall specify in writing the number of sick days (or hours) to be converted. The rate of conversion will be one day (8 hours) of pay at the employee's regular rate for each two days (16 hours) of sick leave converted. The conversion will result in the employee having his/her/their sick leave account reduced by the number of sick leave days converted. Converted hours will not count as "hours worked" in the week paid out for the purpose of calculating overtime, and the leave converted under this program is done on the last in, first out basis.

(2) The employee will receive the payout no later than the first pay period of the next year. No employee shall be permitted to convert any more leave than he/she/they would otherwise earn in a calendar year less any leave earned and used in the calendar year.

260.035 PART-TIME SICK LEAVE POLICY.

All part-time (fewer than 2,080 hours), non-seasonal, non-bargaining employees who have been in the employment of the City for at least six (6) continuous months, shall be paid sick leave as follows:

(a) Part-time employees will earn sick leave at the rate of 4.6 hours pay per 80 hours of completed service, in accordance with Ohio R.C. 124.38.

(b) Sick leave for part-time employees will accumulate without limit beginning on January 1, 2003.

(c) Sick leave for part-time employees may be utilized upon approval of the responsible administrative officer and department head for an absence due to personal illness, pregnancy, injury, exposure to contagious disease which could be communicated to other employees, and for absence due to illness, injury, or death in the employee's immediate family. "Immediate family" consists of father, mother, brother, sister, husband, wife, child and grandparent of the employee and his/her/their spouse.

(d) If medical attention is required or if the absence exceeds five consecutive days, a certificate stating the nature of the illness from a licensed physician may be required to justify the use of sick leave. The appointing authority or his/her/their designee in the employee's department may request such certificate.

260.04 HOURS OF WORK.

Hours of work shall be as normal industry standard of Monday through Friday, with City Hall office hours as 8:00 a.m. to 4:30 p.m. Non-bargaining, full time employees of the Fire, Police and Municipal Court shall establish customary business hours of operation.

260.05 OVERTIME COMPENSATION AND COMPENSATION TIME.

(a) A full-time, non-bargaining City employee, whether compensated on a salary or hourly basis, who, upon the request of his/her/their department head, works in excess of the normal hours of work specified in Section 260.04, shall receive financial compensation for such overtime work on the basis of one and one-half times his/her/their hourly rate or equivalent hourly rate for salaried personnel. The basic hourly rate shall be determined by dividing the employee's bi-weekly wage by eighty hours.

(b) In lieu of receiving financial compensation as set forth in section (a), employees may accumulate up to 120 hours per year of compensation time at a rate of one and one-half times the hours worked beyond a 40-hour work week. The department head shall have sole discretion in compensation time usage. As employees use compensation time, they may add time to the accumulated time as long as the total accumulated time does not exceed 120 hours.

(c) Compensation Time off shall not be carried or credited beyond the calendar year in which it was earned. Such Compensation Time off shall be used during the calendar year in which it was earned within a reasonable time after the request, provided that such use would not unduly disrupt the operations of the department, as determined by the department head.

(d) If any Compensation Time off is not used during the calendar year in which it was earned, the employee shall be provided financial compensation for the unused time as set forth in section (a) above within 31 days after the end of such calendar year.

(e) The department head shall maintain a continuing written record of Compensation Time which has been permitted and earned and shall have such records available for inspection and information by and for the Director of Finance.

(f) Neither financial overtime compensation nor Compensation Time shall apply to heads of departments or Assistant Fire Chief(s) unless otherwise provided by Council. Seasonal and part-time employees shall be compensated for overtime work in compliance with applicable law.

(g) In computing a forty-hour week basis for allowance of financial overtime compensation or Compensation Time, time taken off during the week by an employee shall be deducted unless such time is for authorized leave.

260.06 HOLIDAYS.

(a) Full-time non-bargaining members of the Fire Department who work a forty-hour week shall be entitled to the following holidays:

New Year's Day

Labor Day

Good Friday

Thanksgiving Day

Memorial Day	Day after Thanksgiving Day
Independence Day	Christmas Day

Four personal holidays after the first anniversary of employment

(b) All shift non-bargaining employees of the Police Department shall be granted an eight-hour period for each of the following holidays:

New Year's Day	Labor Day
Good Friday	Thanksgiving Day
Memorial Day	Day after Thanksgiving Day
Independence Day	Christmas Day

Three personal holidays after the first anniversary of employment

In addition to the above, all shift non-bargaining employees shall be compensated for hours worked at a rate of double (2 times) their hourly rate of pay when they work Thanksgiving Day or Christmas Day, and one and one half (1.5) of their hourly rate for the remaining six holidays.

(c) Full-time non-bargaining members of the Police Department who work a forty-hour week shall be entitled to the following holidays:

New Year's Day	Labor Day
Good Friday	Thanksgiving Day
Memorial Day	Day after Thanksgiving Day
Independence Day	Christmas Day

Four personal holidays after the first anniversary of employment

(d) All other full-time non-bargaining Municipal Utilities employees shall be entitled to the following holidays:

New Year's Day	Labor Day
Good Friday	Thanksgiving Day
Memorial Day	Day after Thanksgiving Day
Independence Day	Christmas Eve
	Christmas Day

Four (4) personal holidays after the first anniversary of employment

(e) The Mayor shall receive two personal holidays in addition to the four personal holidays provided in this division.

(f) For employees included in subsections (a), (b), (c), (d) and (e) hereof, if a holiday falls on a Sunday, the following Monday shall be the holiday. If a holiday falls on a Saturday, the preceding Friday shall be the holiday.

(g) Personal Holidays.

(1) A “personal holiday”, as authorized and allowed in this section, is defined as time off similar to other holidays in which the employee may designate the day or time off as a holiday. Such personal holiday is authorized only when the employee has given his/her/their supervisor at least seventy-two (72) hours’ notice prior to the taking of such holiday. The department head may, at his /her/their discretion, schedule such personal holidays in a manner which will maintain effective and efficient operation of the department. Such personal holidays may not be accumulated, with the exception of the non-bargaining unit employees in the Municipal Utilities Department.

(2) Non-bargaining unit employees shall be compensated for all personal holidays not taken prior to December 31 of each year no later than the end of January immediately following at the rate of pay in effect the preceding December.

(g) Upon retirement or termination of employment with the City, a non-bargaining employee shall be compensated for any unused holiday time and personal holiday time. Compensation shall be at an hourly rate, computed by dividing the employee’s bi-weekly wage by the number of hours normally worked biweekly, times the number of unused holiday or personal holiday hours accumulated. In the case of a deceased employee, holiday pay shall be paid to the next of kin or to the executor or administrator of the estate. In addition to the above, all shift non-bargaining employees shall be compensated at a rate of 200 percent of their hourly rate of pay when they work Thanksgiving Day or Christmas Day, and 150 percent of their hourly rate for the remaining six holidays.

260.07 UNIFORM ALLOWANCES.

(a) Police Department.

The Chief of Police shall receive a clothing allowance of one thousand two hundred dollars (\$1,200) for the purchase and maintenance of regulation uniforms and clothing to be paid in two installments of six hundred dollars (\$600.00) each on the scheduled pay days immediately preceding April 1 and October 1.

(b) Fire Department.

The Fire Chief shall receive a uniform allowance of two hundred (\$200) dollars more than the current allotment in the effective collective bargaining agreement between the City and the Avon Lake IAFF; the Assistant Chiefs shall receive one hundred fifty(\$150) dollars more than the current allotment (as noted above) and the Fire Chief's Secretary (Administrative Assistant, if ordered to wear non civilian clothing) shall receive one hundred (\$100)

less than the current collective bargaining agreement rate. All clothing allowances will be paid two equal installments on or before April 1 and October 1 of each calendar year. All of these effected employees must have served their probationary period prior to receiving this benefit unless otherwise allowed by City hiring ordinance(s).

Non-bargaining full time employees in the Public Works and Building Department shall receive a boot or safety/work shoe allowance of \$200 annually (paid on April 1); other non-bargaining employees and/or supervisors may also receive this allowance via their hiring ordinance or as enacted by City Council. In addition to a boot allowance these same employees shall be entitled to a work clothing allowance of \$600.00 per year following the same provision as the boot allowance.

260.08 HEALTH INSURANCE.

Health insurance shall be provided in such amounts and under such terms as the City shall obtain and shall be governed by the terms contained within such policy/policies.

260.09 LIFE INSURANCE.

The City shall provide full premium payment for fifty thousand dollars (\$50,000) of life insurance coverage per full-time employee, upon availability, for the group term life insurance contract, subject to reduction and/or cancellation in accordance with the terms of such contract.

260.10 LONGEVITY COMPENSATION.

(a) (1) The following longevity compensation plan is hereby established for all full-time, non- bargaining unit employees. Eligible full-time, non-bargaining unit employee(s) shall be paid longevity compensation equal to the rate negotiated in the current collective bargaining agreement of that department.

(2) Non-bargaining unit employees with more than one collective bargaining agreement in their department shall be paid according to the longevity scale with the higher beginning dollar value. Employees working in a department without a bargaining unit will be paid in accordance with the scale below:

CONSECUTIVE FULL YEARS OF SERVICE	AMOUNT OF ANNUAL PAY FOR YEAR 2020	AMOUNT OF ANNUAL PAY FOR YEAR 2021	AMOUNT OF ANNUAL PAY FOR YEAR 2022
6	\$600.00	\$600.00	\$600.00
7	\$700.00	\$700.00	\$700.00
8	\$800.00	\$800.00	\$800.00

9	\$900.00	\$900.00	\$900.00
10	\$1,000.00	\$1,000.00	\$1,000.00
11	\$1,100.00	\$1,100.00	\$1,100.00
12	\$1,200.00	\$1,200.00	\$1,200.00
13	\$1,300.00	\$1,300.00	\$1,300.00
14	\$1,400.00	\$1,400.00	\$1,400.00
15	\$1,500.00	\$1,500.00	\$1,500.00
16	\$1,600.00	\$1,600.00	\$1,600.00
17	\$1,700.00	\$1,700.00	\$1,700.00
18	\$1,800.00	\$1,800.00	\$1,800.00
19	\$1,900.00	\$1,900.00	\$1,900.00
20 OR MORE	\$2,000.00 PER YEAR UNTIL TERMINATION	\$2,000.00 PER YEAR UNTIL TERMINATION	\$2,000.00 PER YEAR UNTIL TERMINATION

(3) Non-bargaining unit Municipal Utilities employees with more than one collective bargaining agreement in their department shall be paid according to the longevity scale with the higher beginning dollar value. Employees working in a department without a bargaining unit will be paid in accordance with the scale below:

CONSECUTIVE FULL YEARS OF SERVICE	AMOUNT OF ANNUAL PAY
5	\$500.00
6	\$600.00
7	\$700.00
8	\$800.00
9	\$900.00
10	\$1,000.00
11	\$1,100.00
12	\$1,200.00
13	\$1,300.00
14	\$1,400.00
15	\$1,500.00
16	\$1,600.00
17	\$1,700.00
18	\$1,800.00
19	\$1,900.00
20	\$2,000.00
21	\$2,100.00
22	\$2,200.00
23	\$2,300.00
24	\$2,400.00
25	\$2,500.00 PER YEAR UNTIL TERMINATED

(b) Longevity compensation shall be paid to eligible full-time non-bargaining employees on the scheduled pay day immediately preceding November 1 of each eligible year.

(c) Any full-time non-bargaining employee receiving longevity compensation as set forth in subsection (a) hereof shall, in addition thereto, be required to be employed and work not less than 1,800 hours during the twelve months preceding the computation of such compensation.

(d) Longevity compensation rates shall be computed on continuous years of employment service and not upon any wage or salary rate. Service for purposes of longevity compensation is defined as a full-time position of trust or employment in the service of the City involving not less than 1,800 hours of work per twelve-month period from December 1 until December 1 of the following year.

(e) Hours of work is defined as working or duty hours, including hours paid for vacations, sick leave or other paid authorized absences. Overtime hours worked will not be counted or computed in determining the 1,800-hour basic computation requirement for an eligible service year.

(f) For full-time non-bargaining employees who leave the service of the City, for reasons other than discharge or resignation, the following provisions for longevity compensation shall apply:

(1) In cases of separation from public service because of death or permanent disability, longevity compensation will be prorated and paid as of the time of separation. In the case of a deceased employee, longevity compensation shall be paid to the next of kin or executor or administrator of the estate.

(2) Any non-bargaining employee retiring before December 1 of the calendar year shall receive longevity compensation on a pro rata basis as determined on the date of his/her/their retirement, payable at the time of retirement.

(g) In computing longevity compensation for the first eligible year, the employee shall be compensated on a pro rata month-to-month basis, determined by the number of months (an eligible month for pro rata being twenty or more days) between the employee's sixth anniversary date of employment and the next December 1. Such pro rata compensation shall be added to the first entitlement of longevity compensation.

(h) The monetary value of proration as described in this section shall be determined by the following formula: eligible months divided by twelve, times the entitlement amount as set forth in subsection (a) hereof.

260.11 LEAVES OF ABSENCE.

(a) Three (3) Months Restriction. With the consent of the Civil Service Commission, an appointing officer may grant a leave of absence, without compensation, for a definite or an indefinite period, not to exceed three (3) months. Such an absence may be granted for good causes, among which the following are deemed proper: military service, temporary physical disability or study or training of value in connection with City service. A

leave of absence shall be promptly referred to the Commission for approval in order that the civil service status of such absentee may be protected.

(b) The consent of the Civil Service Commission shall not be required for leaves taken pursuant to the Family Medical Leave Act (FMLA). See also Section 260.125, Family and Medical Leave Policy.

(c) Reinstatement Upon Return. An employee returning after a leave of absence without pay shall be reinstated in his/her/their former position. However, if the appointing officer, during such absence, found it necessary to fill the position and notified the absent employee to this effect, and if, further, the latter refused, in writing, to curtail his/her/their leave and return to work, or failed to respond to his/her/their notification, then it is not required that such employee be reinstated in his/her/their former position.

(d) Military Service. All classified employees of the City returning from the armed services of the United States and applying for reinstatement shall be governed by applicable provisions of the Ohio Revised Code and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

(e) Extension of Leave. Where an employee has been injured in the line of duty, an appointing authority may, with the approval of the Commission, grant one ninety (90) day extension.

260.12 FAMILY AND MEDICAL LEAVE POLICY.

(a) Purpose. In accordance with the 1993 Family and Medical Leave Act (FMLA), the City will provide Eligible Employees with 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.

(b) Definitions as used herein:

(1) "Eligible Employee" shall mean a full-time or part-time employee of the City who has completed one full year of service consisting of at least 1,250 hours during the 12 months preceding the request for leave. An Eligible Employee does not include workers who contract to provide services to the City are not employees of the City.

(2) "FMLA leave" shall mean the leave provided for by this policy and pursuant to 29 U.S.C. § 2601 et seq. and implementing regulations (29 CFR Part 825), as amended from time to time.

(3) "Inpatient Care" shall mean an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity as defined in § 825.113(b), or any subsequent treatment in connection with such inpatient care.

(4) "Incapacity" shall mean an inability to work or perform other regular daily activities due to the Serious Health Condition, treatment therefore, or recovery therefrom.

(5) "Health Care Provider" shall mean a doctor of medicine, osteopathy, podiatry, dentistry, psychology, optometry, or chiropractic medicine (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist); or a nurse practitioner, nurse-midwife, clinical social worker and physician assistant who is licensed and authorized to practice in his/her/their medical or professional field and who is performing such practice within the scope of their practice as defined by the State in which such provider practices.

(6) A "Serious Health Condition" shall mean an illness, injury, impairment or physical or mental condition that involves Inpatient Care in a hospital, hospice, or residential medical care facility or continuing Treatment by a licensed Health Care Provider. Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not Serious Health Conditions unless Inpatient Care is required or unless complications develop. Restorative dental or plastic surgery after an injury or removal of cancerous growths are Serious Health Conditions provided all the other conditions of this section are met. Mental illness or allergies may be Serious Health Conditions, but only if all the conditions of this section are otherwise met.

(7) "Serious Injury or Illness" shall mean an injury or illness sustained or incurred while on active duty by the Eligible Employee's spouse, daughter, son, or parent who is a "covered servicemember" in the U.S. Armed Forces as defined in 29 USC § 2611(18).

(8) "Treatment" shall mean, (but is not limited to) examinations to determine if a Serious Health Condition exists and includes related evaluations and therapies requiring special equipment or course of prescription medication, but does not include routine physical examinations, eye examinations, dental examinations, over-the-counter medications, bed-rest (other than as prescribed for a Serious Health Condition), drinking fluids, exercise, and other similar activities that can be initiated without a visit to a Health Care Provider.

(c) Family/Medical Leave. All Eligible Employees shall be entitled to take up to 12 weeks of unpaid leave during a rolling 12-month period for:

- (1) The birth or pending birth of the Eligible Employee's child and to care for the newborn child birth.
- (2) The placement with the Eligible Employee of a child for adoption or foster care and to care for the newly placed child within 1 year after the adoption or placement.
- (3) To care for the Eligible Employee's spouse, child, or parent who has a Serious Health Condition.
- (4) The Eligible Employee's own Serious Health Condition that makes the employee unable to perform the essential functions of the employee's job.

(5) A qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the Eligible Employee is on "covered active-duty" or been notified of an impending call or order to "covered active duty" as set forth in 29 USC § 2612(a)(1)(E) and 29 CFR § 825.126.

(d) Military Caregiver Leave. An Eligible Employee shall be entitled to take up to 26 weeks of leave during a rolling 12-month period to care for a covered servicemember of the Armed Forces, including a member of the National Guard or Reserves, with a Serious Injury or Illness if the Eligible Employee is the servicemember's spouse, son, daughter, parent, or next of kin of the covered servicemember and as set forth in 29 CFR § 825.127.

(e) Type of Leave.

(1) Continuous. Leave taken because of a birth of the Eligible Employee's child or placement of a child for adoption or foster care with the Eligible Employee must be taken in one continuous period of time and entitlement to such leave expiring at the end of the 12-month period beginning on the date of such birth or placement.

(2) Intermittent. Leave taken when needed to care for a sick family member or for the Eligible Employee's own Serious Health Condition may be taken intermittently or on a reduced schedule only when that type of leave is medically necessary. To accommodate the FMLA leave request, the City may require the Eligible Employee to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates the employee's requested leave. The alternative position will have equivalent pay and benefits, although it may not have equivalent duties.

(3) Combined Leave. Any Eligible Employee taking FMLA leave for a combination of Family/Medical Leave and Military Caregiver Leave is entitled only to a total of 26 weeks of leave during a single 12-month period.

(f) Pay and Benefits During FMLA Leave.

(1) Leave taken under this policy is unpaid. However, the City may, and in most cases will, require that unused vacation or sick time be substituted for unpaid leave as part of the 12 weeks of leave permitted under this policy. All qualifying events will be recorded under FMLA; therefore, employees are required to designate the reason for sick time when utilizing it. During FMLA leave, the employee will be able to continue participation in the benefits program, including medical, dental and prescription benefits. If the employee is enrolled in family coverage, the employee must make arrangements with payroll to continue paying the employee's portion of the health care cost.

(2) If the employee fails to return to work after the employee's leave entitlement has been exhausted or expires, the City may recover its share of benefit plan premiums paid during the period of FMLA leave unless the reason the employee does not return is due to:

A. The continuation, recurrence, or onset of either a Serious Health Condition of the employee or the employee's family member, or a serious injury or illness of a covered servicemember, which would otherwise entitle the employee to FMLA leave as substantiated by a Medical Certification; or

B. Other circumstances beyond the employee's control and at the City's discretion. For purposes of this section, an employee who returns to work for at least 30 calendar days, transfers directly from taking FMLA leave to retirement, or retires during the first 30 days after the employee returns to work is considered to have returned to work.

(g) Notice, Reporting and Medical Certification.

(1) Absent circumstances beyond the employee's control, the employee must provide the City at least 30 days advance notice before FMLA leave is to begin and whenever possible, must consult with the employee's department head to schedule the treatment so as to minimize disruption to the City's operations.

(2) If 30 days advance notice cannot be given due to circumstances beyond the employee's control, for example, an unexpected change in circumstances or a medical emergency, the employee must give notice "as soon as practicable". ("As soon as practicable" generally means at least verbal notice to the employer within one or two business days of learning of the need to take FMLA leave.)

(3) Notice of a request for FMLA leave must be submitted in writing and include the following information:

- A. The reason (s) for the requested leave.
- B. The anticipated duration of the leave.
- C. The anticipated start of the leave.

(4) If the employee requests leave due to a Serious Health Condition (of employee or family member), the request must comply with the following:

A. Initial request. Within 15 calendar days after the request for FMLA leave, employee must provide to the employee's department head a complete and sufficient medical certification that contains, at a minimum, the following information:

- i. Contact information for the Health Care Provider providing Treatment for the person who has the Serious Health Condition.
- ii. The date the Serious Health Condition began and how long it is expected to last.
- iii. Appropriate medical facts about the Serious Health Condition; and

iv. If the request pertains to the employee's own Serious Health Condition, information showing that the employee cannot perform the essential functions of the job or, if leave is to care for a family member, a statement of the care needed; and

v. If intermittent leave is requested, information showing the medical necessity for intermittent or reduced schedule leave and either the dates of any planned leave or the estimated frequency and duration of expected incapacity due to the condition.

Any failure to provide all of the requested information or the certification within 15 calendar days may result in a denial of the request for leave.

B. Recertification. If the employee's need for FMLA leave lasts beyond a single 12-month period, the employer may require the employee to provide a new medical certification in each new FMLA leave year. Recertification may also be requested every 30 days if the employee remains absent during that time, or within 30 days if any of the following occur:

- i. the employee requests an extension of leave;
- ii. the circumstances described in the previous certification have significantly changed; or
- iii. the employee's department head receives credible information that casts doubt upon the employee's stated reason for leave or the continuing validity of the existing medical certification. A medical certification form will be provided to the employee, if required.

(5) If the employee requests leave because of a qualifying exigency, the employee must provide a copy of the military member's active-duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active-duty status, and the dates of the military member's covered active-duty service and supported by the information set forth in 29 CFR § 825.309.

(6) If the employee requests leave due to a Serious Injury or Illness, a certification supplying information from a Health Care Provider as set forth in 29 CFR § 825.310.

(7) While the employee is on FMLA leave, the employee must make periodic reports to the employee's department head or other designated City representative(s) concerning the employee's status and the employee's intent to return to work.

(h) Return to Work.

(1) Except as otherwise set forth in the Rules of the Civil Service Commission or a collective bargaining agreement, if the employee's leave is taken as a result of the employee's own Serious Health Condition, the

employee must present certification from his/her/their Health Care Provider that the employee is able to resume work before the employee will be permitted to do so.

(2) When the employee's FMLA leave ends, the employee is entitled to return to the same position the employee held when the leave began, or to an equivalent position with equal benefits, pay and other terms and conditions of employment.

(3) Circumstances under which the employee may not be reinstated to employment. may include but are not limited to the following:

- A. If the employee would otherwise not have been employed at the time for reinstatement (e.g., if there has been a layoff which would have affected the employee if the employee had been working)., the employee is not entitled to be
- B. If employee is a qualified "key employee" and such action is necessary to prevent substantial and grievous economic injury to the City's operations. If the City determines that the employee is such a "key employee", the employee will be so notified, either when the employee applies for the FMLA leave, or as soon thereafter as the City has made its good faith determination based on the circumstances of the particular case.
- C. If the employee fraudulently obtained FMLA leave.
- D. If the employee is unable to perform an essential function of the position because of a physical or mental condition, including the continuation of a Serious Health Condition or an injury or illness covered by workers' compensation.

(i) Further Information. Any questions regarding this policy should be directed to the Director of Human Resources for the City.

260.13 UNAUTHORIZED LEAVES. [section deleted]

260.14 EMPLOYEE RECORDS; RESPONSIBILITIES OF DEPARTMENT HEADS.

All department heads shall provide holiday, sick leave and vacation information with each payroll. Affidavits covering sick leave shall also be submitted with the bi-weekly payroll. Documentation of time charged in processing payroll (i.e. vacation, sick) are the responsibilities of the Department Heads.

260.15 EDUCATIONAL INCENTIVE COMPENSATION. EDUCATIONAL INCENTIVE COMPENSATION.

To address the increasing needs for diversified services throughout the City, the educational incentive compensation program is provided to encourage employees to obtain education above the minimum level necessary for their job position. These payments shall be made following the collective bargaining agreement schedules or as determined by the Finance Department and Payroll processes.

(a) Eligibility.

(1) The Fire Chief and any Assistant Fire Chief shall receive compensation equal to the education incentive rate in the current International Association of Firefighters Local 1361 bargaining agreement.

(2) The Police Chief shall receive compensation equal to the educational incentive rate in the current bargaining agreement for the FOP Lodge #25, Avon Lake Division.

(3) All full-time, non-bargaining employees who have completed a minimum of six (6) months of full-time, continuous employment with the City and who complete additional education directly related to the job the employee is performing, as determined by the Mayor and the Human Resource Director.

(b) Exclusions.

(1) Education levels required for the employee's position are not eligible for education incentive compensation.

(2) Employees who leave the City's employment prior to completion of their new employee probationary period may be required to reimburse the City for any educational incentive compensation received under this program.

(c) Payment.

(1) Upon meeting the eligibility requirements, payment of the education incentive shall be made on an annual basis at the same time as similar payments are made pursuant to the collective bargaining agreement applicable to the department in which the employee is employed.

(2) Payment is determined based upon the highest degree earned above the minimum education level required for the employee's position and may not be stacked with other degrees earned or earned for more than one degree per level of education attained.

(3) Except for the Fire Chief, Assistant Fire Chief, and Police Chief, incentive payment shall be made at the following levels:

Associate's Degree	\$450.00
Bachelor's Degree	\$500.00
Master's Degree	\$750.00
Doctorate Degree	\$1,000.00

(d) Documentation. To be eligible for the education incentive, employee must furnish to employee's department head a certificate from an accredited educational institution evidencing that the employee has satisfactorily completed all requirements necessary to be granted a degree by said educational institution. Copies of said certificates shall be forwarded to the Finance Department and shall be filed with the employee's permanent records.

260.16 USE OF CITY VEHICLES BY CITY EMPLOYEES.

The use of City vehicles by City employees shall be regulated by the Heads of the various departments for regular working hours and after hours as necessary and as follows:

(a) Current Regulations. The Director of Finance shall notify the department heads of all current Federal and State regulations concerning the use of City vehicles.

(b) General Provisions.

(1) If recommended by an administrative head and approved by Council, an individual using his/ her/their own personal vehicle for City business shall be compensated for mileage at the current rate as established by the Internal Revenue Service. Documentation for such use must be provided to the City.

(2) Only City vehicles may use the City gas pumps and maintenance, regardless of the use of personal vehicles as stated in paragraph (b)(1) hereof.

(3) No City official shall use a City vehicle for personal or non-City business.

260.17 DEFERRED COMPENSATION.

The City hereby adopts a plan under the Ohio Public Employees Deferred Compensation Program and extends to all eligible employees the opportunity to join.

260.18 BEREAVEMENT LEAVE.

Except as otherwise provided in the Rules of the Civil Service Commission or a collective bargaining agreement, as applicable, bereavement leave is provided as follows:

(a) Employees shall be allowed bereavement leave with pay in the event of the death of a member of the employee's or the employee's spouse's "immediate family." The term "immediate family" means father, mother, brother, sister, husband, wife, child, and grandparents of the employee and/or his/ her/their spouse.

(b) Full-time, non-bargaining employees shall be allowed bereavement leave with pay for a period not to exceed three work days for each death, including travel, within the State of Ohio, and five days for each death, including travel time, outside the State of Ohio.

260.19 PHYSICAL EXAMINATIONS. [Deleted]

260.20 CITY PICK-UP OF EMPLOYEE CONTRIBUTIONS TO OHIO PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND OHIO POLICE AND FIRE PENSION FUND.

(a) The City's method of payment of salary and its provision of fringe benefits to all non- bargaining unit employees who are members of the Public Employees Retirement System (PERS) or the Ohio Police and Fire Pension Fund (OPFP) and are not covered by Ordinances 132-87 or 133-87 are hereby modified as follows, in order to provide for a salary reduction pick-up of employee contribution to PERS or OPFP, in accordance with Internal Revenue Code Section 414(h)(2) and the rulings thereunder.

(b) The total annual salary and salary per pay period for each such employee shall be the salary otherwise payable under the City policies. Such total annual salary and salary per pay period of each employee shall be payable by the City in two parts: deferred salary and cash salary. An employee's deferred salary shall be equal to that percentage of said employee's total annual salary or salary per pay period which is required, from time to time by PERS or OPFP, to be paid by an employee and shall be paid by the City to PERS or on behalf of said employee as a pick- up and in lieu of the PERS or OPFP employee contribution otherwise payable by said employee. An employee's cash salary shall be equal to said employee's total annual salary or salary per pay period less the amount of the pick-up for said employee and shall be payable, subject to the applicable payroll deductions, to said employee. The City shall compute and remit its employer contributions to PERS or OPFP based upon an employee's total annual salary or salary per pay period, including the aforesaid pick-up. The City's total combined expenditures for such employees' total salaries otherwise payable under the applicable City policies (including pick-up amounts) and its employer contribution to PERS or OPFP shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

(c) The pick-up shall be included in the employee's total annual salary for the purpose of computing daily rate of pay, for determining paid salary adjustments to be made due to absence, or for any other similar purpose.

(d) The City shall fulfill its income tax reporting and withholding responsibilities for each employee in such manner as is required by applicable Federal, State and local laws and regulations as they may exist at the time of such reporting and withholding, it being the City's understanding that Federal and Ohio income tax laws and regulations presently require it to report as an employee's gross income his/her/their total annual salary less the

amount of the pick-up, while applicable municipal income tax laws require it to report as an employee's gross income his/her/their total annual salary including the amount of the pickup.

(e) The Mayor, or his/her/their designee, is hereby directed to take all acts necessary and appropriate to initiate implementation of the provisions of this section, including, but not limited to, making applications to the Internal Revenue Service and the boards administering the PERS or OPFP programs to determine the requirements of the boards in connection with such pick-up plan.

(f) The pick-up plan shall apply to all eligible employees who qualify under this section and the plan shall commence with the first PERS or OPFP pay period, whichever shall apply to a covered non-bargaining unit employee, which begins after the passage and approval of this section.

260.21 REIMBURSEMENT OF RETIRED EMPLOYEES FOR COST OF SPOUSE'S HEALTH INSURANCE. [Deleted]

260.22 JURY AND WITNESS DUTY.

In the event a City employee (full time employees and/or those classified as non-seasonal), is called for jury duty or is required to testify as a witness pursuant to subpoena or court order issued by any court of record and of competent jurisdiction, or by Council or any Board or Commission of the City, the City shall pay to such employee such compensation as the said employee was to receive as pay from the City based on his/her/their pay rate for the regularly scheduled work time lost in fulfilling the jury duty or witness call responsibility, if any, and excluding overtime. Such employee must provide adequate evidence to prove to the satisfaction of the City that he/she/they is entitled to such regular compensation. Notwithstanding the provisions of this section, no City employee shall receive such jury duty or witness compensation as called for herein if such employee is also entitled to receive any benefit or compensation for jury duty or serving as a witness during regularly scheduled work time by virtue of the terms of a collective bargaining agreement with the City in effect at the time involved.

260.23 DRUG FREE WORKPLACE POLICY.

(a) Purpose. The City regards the illegal use of drugs and the abuse of alcohol as serious problems. In addition to achieving compliance with the Federal Drug Free Workplace Act of 1988 and the Ohio Drug-Free Safety Program, it is the purpose of this policy to create an alcohol and substance-abuse free workplace, which will enhance the health, safety, security and performance of the employees of the City.

(b) Policy.

(1) The use, sale, manufacture, distribution, dispensation, or possession of unauthorized or illegal drugs on City property is absolutely prohibited. Reporting to work or working while under the influence of alcohol

or illegal drugs is also prohibited. Violation of this policy will result in disciplinary action up to and including termination.

(2) It is the City's intention to apply Federal law as it applies to all employees, union and non-union. The City shall address problems associated with having on-duty employees under the influence of alcohol or illicit drugs and the obligation of the City to deal with these problems pursuant to the Federal Drug Free Workplace Act of 1988, the regulations thereunder, the Federal Omnibus Transportation Testing Act of 1991, and any other federal or state laws or regulations requiring substance abuse testing. However, where a direct conflict between this policy and a collective bargaining agreement exists, the parties shall meet and confer to resolve any conflicts. Discipline shall be enforced according to the terms of the collective bargaining agreement.

(c) Reasonable Accommodations. Except as otherwise set forth herein, the City recognizes that some prescription medications and medical marijuana may affect judgment, coordination, and physical ability but that such prescription medications and/or medical marijuana have been prescribed by a licensed physician specifically to meet the needs of the employee. Employees who present evidence of a medical condition requiring the use of prescription medications or medical marijuana which otherwise might violate the terms of the City's Drug Free Workplace Policy may be entitled to reasonable accommodations in accordance with the Americans with Disabilities Act.

260.24 DRUG AND ALCOHOL TESTING POLICY.

In accordance with the City's Drug Free Workplace Policy, the City has implemented a Drug and Alcohol Testing Policy.

(a) Responsibility. All department heads, managers, and supervisory personnel are responsible for the implementation of this policy. Questions concerning the interpretation of this policy should be referred to the Director of Human Resources for the City.

(b) The City of Avon Lake DOT (Department of Transportation) Drug/Alcohol Abuse Policy for operators of City equipment with commercial drivers' licenses, as attached to original Ordinance 127-96, passed June 24, 1996, is hereby adopted by the City by reference as if fully set forth herein. Copies of the Policy and of such ordinance may be obtained, at cost, from the Clerk of Council. The City further follows all applicable Department of Transportation regulations for both federal and state governments, including the continued prohibition on the use of medical marijuana by commercial drivers.

(c) Implementation Guidelines.

(1) A urine drug screen will be conducted to detect the presence of illegal drugs; a blood alcohol test will be conducted to detect the presence of alcohol. The employee must consent to either test which must be performed in an approved medical facility.

(2) Testing of urine specimens will be conducted only by laboratories that have received Federal Department of Health and Human Services' (HHS) approval and which follow HHS guidelines for testing. This will allow for maximum consistency in operating procedures and quality control.

(3) All urine samples will be tested for the following drugs: marijuana, cocaine, amphetamines, opiates, and phencyclidine (PCP).

(4) Collection of urine samples will be conducted by controlled laboratory methods to assure security but will not require witnessing of sample collection.

(5) All urine samples will undergo a preliminary analysis for the above listed substances. If the test result is positive, the urine sample will undergo a confirmatory gas chromatography/mass spectrometry (GC/MS) test. If the urine sample tests positive on both the preliminary analysis and the GC/MS, the urine sample will be classified as positive. The laboratory will report all results to a designated City official.

(6) Employees who have a positive drug test result may ask for a retest of the original specimen according to procedures and specifications of applicable federal regulations, or in the absence of such regulations, any applicable collective bargaining agreement or, in the absence of such agreement, according to procedures and specifications of the Human Resources Director. The laboratory performing such a retest shall be certified by HHS.

A. Any such retest shall be at the expense of the employee.

B. An employee request for a retest shall not delay the imposition of appropriate disciplinary action or referral to an alcohol and/or drug abuse rehabilitation program

(7) Tests shall be administered as soon as possible after the employee receives medical attention, if necessary, or within eight (8) hours for suspected alcohol and within thirty-two (32) hours for other suspected drugs.

(d) Testing Guidelines.

(1) Pre-Employment and New-Hire Testing.

A. All new employees may be subject to pre-employment testing and/or new-hire testing within the employee's probationary period.

B. All new employees in safety-sensitive and special needs positions will be subject to random drug testing during the employee's probationary period.

(2) Reasonable Suspicion Testing.

- A. For drugs and/or alcohol will be conducted when reasonable suspicion exists that an employee:
 - i reports for work or reasonably appears to be working under the influence of alcohol or illegal drugs.
 - ii admits to a supervisor being under the influence of alcohol or illegal drugs while on City property or on City business.
 - iii is involved in any workplace accident or other incident which suggests the employee is under the influence of alcohol or illegal drugs.
 - iv has excessive and unexplained absenteeism or tardiness.
 - v is involved in a significant incident in which the health or safety of the employee or other individuals is involved, or in which extensive property damage has occurred.
- B. When reasonable suspicion testing is warranted, both management and HR will meet with the employee to explain the observations and the requirement to undergo a drug and/or alcohol test within two hours. Refusal by an employee will be treated as a positive drug test result and will result in immediate termination of employment.
- C. Under no circumstances will the employee be allowed to drive himself or herself to the testing facility. A member of management must transport the employee or arrange for a cab and arrange for the employee to be transported home.

(3) Random Testing. Employees may be selected at random for drug and/or alcohol testing at any interval determined by the Company and must undergo a drug and/or alcohol test within two hours of notification.

(4) Return-to-duty and follow-up alcohol test with two hours of notification.

- A. Any employee who tests positive for illegal drugs, alcohol, and/or medically unjustified drugs may be subject to follow-up testing and/or rehabilitation prior to being allowed to return to duty.
- B. An employee who tests positive a second time is subject to termination without further opportunity for rehabilitation.

(e) Discipline/Rehabilitation.

(1) Refusal to be tested will be grounds for discipline, up to and including termination. Submission of an adulterated specimen will constitute a refusal to test.

(2) Driving motor vehicles. Any operation of a motor vehicle on company business while under the influence of alcohol or illegal drugs may be cause for disciplinary action, up to and including termination.

(3) Except as otherwise set forth herein, when testing for Reasonable Suspicion is required, employees are to be removed immediately from the workplace and escorted to an appropriate medical facility.

(4) If Reasonable Suspicion testing is performed as a result of an on-the-job accident, each employee who may have caused or contributed to the accident will be required to submit to a drug or alcohol test unless the accident investigation documents all of the exceptions identified below.

(5) If the alcohol and/or drug test(s) are classified as negative after review, the employee will be returned to work and standard disciplinary practices will prevail for the incident which led to the testing. The only exception to this is if other evidence exists which identifies the employee who tested negative as a current illegal drug user. If sufficient evidence exists to identify the employee as a current illegal drug user, the employee will be subject to discipline/rehabilitation as described in division (d)(3) of this section.

(6) If the positive alcohol and/or drug test(s) are classified as medically unjustified after review, the result(s) will be reported to the Human Resources Department. The report will be made available to the employee if requested.

(f) City's Employee Assistance Program (EAP).

(1) The City's EAP provides professional, confidential assistance to help employees resolve problems with alcohol and drugs and other issues that affect their personal and work life.

(2) If an employee's alcohol or drug test is a medically unjustified positive, or if sufficient evidence exists to identify the employee as a current illegal drug user, the City, at its discretion, may require an employee to undergo rehabilitative treatment and unannounced testing at the worksite, as recommended by the treatment facility in conjunction with the EAP and the City's Human Resources Department. Refusal to undergo rehabilitative treatment and/or failure to comply with post-rehabilitation testing will result in termination.

(3) The Director of Human Resources for the City will contact the EAP to discuss the employee's alcohol or drug problem, develop a plan of action, and if appropriate, arrange an appointment for the employee with the EAP. The supervisor and the Human Resources Director will communicate the agreed upon plan to the employee. An employee's refusal to accept referral to the EAP and follow EAP recommendations for addressing an alcohol or drug problem may be grounds for discipline, up to and including termination.

(4) Representatives from the EAP will maintain contact with the employee's supervisor and/or Human Resources representative concerning the employee's participation in the EAP and compliance with treatment recommendations. Information regarding the employee's diagnosis and treatment will not be disclosed; any confidential information will be disclosed only with a signed release from the employee.

(5) Convictions for alcohol/drug related criminal offenses. Any conviction for an alcohol or drug-related criminal offense will be considered grounds for discipline, up to and including termination.

- A. When an employee is convicted, the conviction will be reviewed by management, including representatives from the union (if applicable), Human Resources and Legal Departments, to determine the appropriate course of action.
- B. Where applicable, all drug-related workplace convictions will be reported to the appropriate contracting office of the Federal government, in accordance with the provisions of the Drug Free Workplace Act of 1988.

(6) Employee training and education. Each department, in conjunction with Human Resources, is required to implement programs to inform employees of the City's Alcohol and Drug Free Workplace Policy. These, programs must:

- A. Educate employees and increase their awareness of the negative effects of alcohol and drug abuse on health and safety.
- B. Train supervisory personnel on their responsibilities for ensuring compliance with the City's policy and fostering an alcohol and drug free workplace.
- C. Inform employees and supervisory personnel about the use of the Employee Assistance Program.

(7) Searches. The City reserves the right to conduct reasonable searches of any property when there is reason to suspect violation of the policy, with prior notification and approval of the Mayor and review by legal counsel.

(8) Right to privacy.

- A. Information regarding an employee's use of alcohol or illegal drugs will be maintained in a confidential medical record.
- B. All records that pertain to an employee's use of the Employee Assistance Program will be maintained by and remain the property of the EAP. No information concerning the employee's diagnosis and treatment will be revealed by the EAP except in the following circumstances:
 - i The employee consents in writing.
 - ii The law requires disclosure; and
 - iii It is believed that life or safety are threatened by failure to disclose.

260.25 PAYMENT FOR UNUSED SICK LEAVE UPON RETIREMENT.

(a) In lieu of a portion of the maximum severance pay allowed in Section 260.03, full-time, non-bargaining unit employees with either a total of twenty-six years of PERS-accepted credit time, or who are eligible for PERS pension on the date of their proposed retirement, may request to convert their current awarded sick leave hours to paid wages.

(b) Sick leave shall be limited to a maximum annual accumulation of 120 days of sick leave per year.

(c) Any sick leave utilized during this program will be deducted from the employee's past bank of accumulated hours, if applicable on a first-in-first-out (FIFO) basis.

(d) The payment for the accumulated hours shall be made on the last pay of December, except that the final payment shall be made at the time of retirement.

(e) The hourly rate used to calculate the amount of the payment shall be 100 percent of the employee's prevailing rate of pay at the time of the payment, with the current appropriate amount of pension deduction for employee and employer shares of pension contributions. All sick leave hours converted to payment shall be deducted from the maximum allowed under Section 260.03.

(f) By submitting the request to participate in this sick leave buyout plan, the employee acknowledges that his/her/their final sick leave balance, upon retirement for severance calculation pursuant to Section 260.03, will be reduced by the amount paid (maximum of 120 hours annually). At no point shall the payment received exceed the maximum number of sick days allowed to be paid out upon retirement pursuant to Section 260.03 in order to insure no additional costs to the City. If the employee fails to execute retirement or withdraws from the program, he/she/they:

(1) Must repay any amounts received under the program in order to re-enroll; or

(2) Will only be eligible for future severance payments to the maximum allowed, less any time previously paid under this plan.

(g) The employee must submit a request in writing to the department head, with a copy to the Finance Director, asking for enrollment in this plan. A copy of the employee's most recent PERS service credit statement must be attached to the request.

(1) Within ninety days, the Finance Director will notify the employee of his/her/their correct sick leave balance, and the number of hours to be paid at the last pay of December.

(2) The employee then has thirty days within which to dispute any balance in question.

(h) The arrangement is not a guarantee of employment, and the City reserves the right to terminate this plan at the end of any given calendar year.

260.26 COMPENSATION TIME.

(a) Full-time non- bargaining municipal employees, whether compensated on a salary or hourly basis, who upon approval from his or her department head, shall be entitled to accumulate up to 120 hours per year of compensation time at a rate of one and one-half times the hours worked beyond a 40-hour work week. The department head shall have sole discretion in compensation time usage. As employees use compensation time, they may add time to the accumulated time as long as the total accumulated time does not exceed 120 hours.

(b) Compensation time off shall not be carried or credited beyond the calendar year in which it was earned. Such compensation time off shall be used during the calendar year in which it was earned within a reasonable time after the request, provided that such use would not unduly disrupt the operations of the department, as determined by the department head.

(c) If any compensation time off is not used during the calendar year in which it was earned, the employee shall be paid for the same in cash 31 days after the end of such calendar year.

(d) The department head shall maintain a continuing written record of compensation time which has been permitted and earned and shall have such records available for inspection and information by and for the Director of Finance.

260.27 ETHICS AND OUTSIDE EMPLOYMENT.

(a) All City employees are expected to conduct themselves in accordance with the City's Policy and Procedure Manual, as may be amended from time to time.

(b) Ohio law does not prohibit City employees from engaging in private, secondary employment provided that:

- (1) no conflict of interest exists between the employee's employment with the City and the private employer;
- (2) there is no misuse of the public office or employee's position with the City;
- (3) such employment is not conducted at such time as employee is engaged or supposed to be engaged in employee's employment with the City; and
- (4) There is no use or misuse of City facilities, personnel, or other resources.

260.28 NEPOTISM.

In keeping with good personnel management procedures, to guarantee equal employment opportunities to all, and to foster an environment where people are treated with respect and trust, the City hereby adopts the following as its official policy towards employment of immediate family members within the City.

(a) For purposes of this section, immediate family shall include parents, grandparents, children (natural or adopted), grandchildren, spouse, siblings, or any other persons related to the public official or employee by blood or by marriage and residing in the same household with the official.

(1) Pursuant to opinions from the Ohio Ethics Commission, this Nepotism Policy does not create a "no-relatives" standard but rather a prohibition against a public servant using or abusing their public position to secure public jobs or contracts for family members. It is not intended to prevent families from working together, but to prevent the possibility that a public servant may show favoritism towards their family in the exercise of discretionary authority to hire qualified public employees on behalf of the public entity.

(2) All employees required to complete a Personal Information Sheet upon initial employment which asks for name(s) of any relative(s), not limited to immediate family members, employed within the City. The Human Resources Department is responsible for monitoring this information and notifying the Director or Mayor of a prohibited relationship.

(b) No public official or employee shall use the authority or influence of their office to secure employment or authorization of any public contract for any member of their immediate family within the political subdivision in which they serve.

(1) The basic criteria for appointment and promotion of all municipal employees will be appropriate qualifications and performance. Relationship by family or marriage will constitute neither an advantage nor a deterrent to appointment, provided that the individual meets and fulfills the appropriate appointment standards.

(2) Members of the same immediate family whose qualifications rank each of them first for the positions under consideration may be employed in either full-time or part-time positions so long as neither family member is in a position to hire, supervise, direct, evaluate, or otherwise influence the work assignments, working conditions, working hours, promotion, retention, discipline, or compensation of the other.

(c) An employee who violates this policy, whether by knowingly permitting or knowingly accepting employment in violation of this policy, is subject to disciplinary action up to and including dismissal from employment.

(d) Any conflicts between this section and the rules for hiring employees subject to a collective bargaining agreement shall be resolved in favor of the collective bargaining agreement.