

**ORDINANCE NO. 042-14**

**AN ORDINANCE AMENDING THE PERSONNEL CODE  
CHAPTER 197 OF THE CODIFIED ORDINANCES OF THE CITY  
OF NAPOLEON**

**WHEREAS**, the Safety and Human Resources Committee met in a regular meeting held on May 27<sup>th</sup>, 2014, and reviewed the entire Personnel Code and suggested changes presented by staff and recommended that the City should adopt the amended Personnel Code; and,

**WHEREAS**, City Council acknowledges that from time to time it must review the various codes and policies of the City of Napoleon; and

**WHEREAS**, City Council now desires to amend the Personnel Code of the City of Napoleon; Now Therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON,  
OHIO:**

Section 1. That, the City of Napoleon does hereby amend Chapter 197 of the Codified Ordinances of the City of Napoleon, Ohio as follows:

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**CHAPTER 197**

***PERSONNEL CODE***

**City of Napoleon, Ohio**

**197.01 Preamble.**

**197.02 Miscellaneous.**

**197.03 Employee records and discipline.**

197.04    **Employee relations.**

197.05    **Layoff and recall procedures.**

197.06    **Residency requirements.**

197.07    **City organization chart.**

197.08    **Preconditions for employment.**

197.09    **Promotions, assignments and transfers.**

197.10    **Hiring of seasonal and temporary workers.**

197.11    **Safety Committee.**

197.12    **Seniority.**

197.13    **Policy, procedures and work rules.**

197.14    **Hours of work and compensation.**

197.15    **Major paid benefits.**

197.16    **Paid leaves of absence.**

197.17    **Trauma leave.**

197.18    **Vacations.**

197.19    **Other leaves of absence.**

## **197.01 PREAMBLE**

### **(a) Applicability, Purpose and Interpretation**

The term "Code" as used in this Chapter shall be interpreted to mean the "Personnel Code" unless its context clearly indicates otherwise and shall be considered part of the Administrative Code of the City of Napoleon, Ohio, whether codified or not.

Any resolution, ordinance, code or other similar instrument that refers to the "Personnel Code" shall be construed to mean this Code.

This Code supersedes and replaces all applicable federal and state laws, statutes, codes, policies, and all matters or issues pertaining to employee wages, benefits, and working conditions over which it has authority to supersede and replace. However, *AN ORDINANCE OR RESOLUTION OF THE CITY MAY SUPERSEDE THIS CODE IF THE SPECIFIC ISSUE OR ISSUES ADDRESSED IN THE ORDINANCE OR RESOLUTION CONFLICT WITH*

~~THIS CODE. this Code does not supersede or replace resolution or ordinance numbers, 128-95, 16-98 and 117-06 (employment resolutions or ordinances pertaining to the City Manager and City Finance Director) as may be amended from time to time (except as it pertains to residency). A TYPICAL EXAMPLE OF WHEN THIS MAY OCCUR IS WHEN A NEW HIRE NEGOTIATES TERMS DIFFERENT THAN THIS CODE, BUT IT IS NOT LIMITED TO JUST THIS EXAMPLE.~~

Further, this Code does not pertain to the position of Judge of the Napoleon Municipal Court which shall be controlled by the Ohio Revised Code, except for the benefits as authorized by Section 197.14(i) concerning "Retirement Contribution Pickup" and as provided in 197.15 of this Code.

In the event that any provision of this Code and its application to any employee is held to be contrary to law by a court of competent jurisdiction, in areas of law that it may not be contrary, it shall be of no further force and effect, except to the extent permitted by law; but all other provisions and applications shall continue in full force and effect.

Any provision of a collective bargaining agreement shall govern matters covered herein only to the extent required by law. Nothing in this Code shall be construed as giving additional benefits to members of a bargaining unit that are not otherwise stated in the collective bargaining agreement.

**(b) Definitions**

Definitions for the purpose of this Code:

Any reference in this Code to "hire date", "date of employment", "anniversary date", "hired" and the like shall generally mean the first date of service following the most recent notice of hiring, unless the context clearly indicates otherwise.

**Active Pay Status** - Shall mean that an employee has received or is entitled to

receive pay for one (1) of the following reasons when properly authorized in accordance with the terms of this Code: time worked whether at regular or overtime rates; sick leave; vacation leave; personal holiday; legal holiday; bereavement leave; or, compensatory time off. Active pay status shall exclude any unpaid time, unpaid leaves of absence, or unpaid separation from employment, whether authorized or unauthorized. The definition of active pay status as herein defined is intended to define active employment and is not intended nor shall it be construed as to supersede the requirements of earning overtime pay or compensatory time.

**Appointing Authority** - The directors of the city as provided by Charter, i.e. city manager, city finance director and city law director and may include other officers as authorized by the charter. Appointing authority may, when the text clearly indicates, mean the city council when the positions are appointed by council. Appointing authority may be others as designated by act of council or when delegated to others by the city manager, city finance director or city law director. Finally, for employees of the municipal court, the appointing authority shall be as provided by the Ohio Revised Code.

**Bargaining Unit** - Shall mean all employees of the City of Napoleon employed in a group of positions recognized by the City who are represented by an exclusive representative and whose terms of employment are covered by a collective bargaining agreement.

**Class** - A group of positions (or one (1) position) that:

Have similar duties and responsibilities;

Require like qualifications; and

Can be equitably compensated by the same salary range.

**Classified Service** - as defined in the Napoleon Civil Service Code and or Civil Service Rules of the City, the Charter, ordinance or other controlling law.

**Class Title** - The official designation or name of the class as stated in the class specification. It shall be used on all personnel records and actions. Working or office titles may be used for purposes of internal administration.

**Director(s)** - The city manager, city finance director, and city law director.

**Employee** - Unless the context otherwise indicates, employee shall mean any employee of the City.

**Employee, Full-Time Regular** - An employee hired to work for the City full-time, at least ~~thirty-seven and one half (37-1/2)~~ **THIRTY (30)** hours per week on a regular basis (normally 52 weeks per year) (except authorized leave). A full-time firefighter or EMT shall be considered full-time if they work a twenty-four (24) hour duty day at least fifty-three (53) hours per week on a regular basis (normally fifty-two (52) weeks per year, except authorized leave); ~~or, if they work an eight (8) hour duty day at least thirty-seven and one half (37-1/2) hours per week on a regular basis (normally 52 weeks per year, except authorized leave).~~ Full time employees include both hourly and salary employees. For the purpose of this Code, the city manager, city law director, city finance director and those other full-time positions appointed by council shall be considered full-time regular employees of the city and be entitled to the benefits as provided to other full-time regular employees, except where specifically excluded or where the context of the section clearly indicates that such section is not applicable to the positions. Council members and the mayor are not considered employees of any type for the purpose of this Code, except for purpose of public retirement benefits, workers compensation benefits and other benefits as specifically authorized by ordinance to be applicable to the council or mayor, or as may otherwise be required by law. For the purpose of this Code, board and commission members of the city are not considered employees of any type and are not entitled to benefits except unless specifically authorized for board and commission members by ordinance or as may otherwise be required by law.

**Employee, Part-Time** - An employee hired to work part-time, less than a regular ~~thirty-seven and one-half (37-1/2)~~ **THIRTY (30)** hour work week (regardless of the number of weeks per year worked), for less than twelve (12) continuous months. Any reference to a summer, seasonal or intermittent employee shall mean part-time employee.

**Employee, Permanent Part-Time** - An employee hired to work part-time, less than a regular ~~thirty-seven and one-half (37-1/2)~~ **THIRTY (30)** hour work week, for twelve (12) or more continuous months, unless for a specific assignment on a temporary basis.

**Employee, Temporary** - An employee ~~who may work a regular thirty-seven and one-half (37-1/2) hours or more work week, but THAT~~ is hired for a period of time expected to be less than ~~eight (8) months~~ **ONE HUNDRED AND TWENTY (120) DAYS PER ROLLING CALENDAR YEAR** or no later than on completion of a specific assignment is considered a temporary employee. ~~A temporary employee may be offered and may accept a new temporary assignment and still retain temporary status, provided there is a one (1) week break of employment.~~

**Grievance** - Shall mean an allegation by a full-time regular employee of the classified service for the City that there has been a breach, misinterpretation, or improper application of this Code (It is not intended that the grievance procedure be used to effect changes in this Code nor those matters which are controlled by the provisions of Federal or State laws and/or by the United States or Ohio Constitutions).

**Involuntary Departure** - Shall mean disciplinary termination or a firing of an employee.

**Legal Holiday** - Any City observed legal holiday, except President's Day.

**Non-Bargaining Employees** - Employees not a member of an officially recognized bargaining unit.

**Pay Period Normal** - Monday 12:00 a.m. through the following Sunday 11:59 p.m. for two (2) consecutive weeks (biweekly), with exception of the Police Department which is Monday 7:00 a.m. through the following Monday 6:59 a.m. for two (2) consecutive weeks (biweekly).

**Perform The Job** - For the purposes of this Code, perform the job shall mean perform the essential functions of the job, with or without reasonable accommodation, without posing a direct threat to the health or safety of the employee or others.

**Physician** - Unless the context indicates otherwise physician shall mean a medical doctor of medicine or osteopathy licensed to practice medicine or surgery in the State of Ohio.

**Position** - A group of currently assigned duties and responsibilities requiring the full or any part-time or temporary employment of one (1) person. A position may be occupied or vacant.

**Residence** - The place where one actually lives or has his/her home; a person's dwelling or place of habitation; an abode; house where one's home is. Personal presence is required without intention of definite or early removal and with purpose to remain for an undetermined period (not a post office box or just a mailing address). Place of residence is the place as reasonably determined to qualify as a residence of an employee by the employee's appointing authority.

**Residency** - A term to describe residence requirements as required by the City for



employment purposes.

**Resident** - Any person who occupies a residence within ~~this~~ *THE* City and *ITS LIMITS*, having a present intent to remain within the City for a period of time.

**Shift Work** - Work in a department when at least three (3) separate and distinct shifts exist in a twenty-four (24) hour period.

**Statutory Holiday** - Any City observed legal holiday with exception to *OF* President's Day, *OR AS DEFINED IN AN APPROVED BARGAINING AGREEMENT*.

**Unclassified Service** - As defined in the Napoleon Civil Service Code or Civil Service Rules of the City, the charter, ordinance, resolution, or other controlling law.

(Ord. 015-12. Passed 3-5-12.)

## **197.02 MISCELLANEOUS**

### **(a) Extensions of Times and Deadlines**

Unless the context indicates otherwise, whenever a certain event is to occur on a date which is a Saturday, Sunday, or City legally observed holiday, or a certain deadline is to expire on a date which is Saturday, Sunday, or City legally observed holiday, the date upon which such event shall occur or such deadline shall expire shall be the first date thereafter which is not a Saturday, Sunday, or City legally observed holiday.

Unless the context indicates otherwise, in computing any period of time prescribed or allowed by this Code, the date of the act or event from which the designated period of time begins to run shall not be included.

(b) **Gender Reference**

All references to employees in this Code shall include both sexes, and wherever the male gender is used, it shall be interpreted to include male and female employees.

(c) **Personnel Policies to be Governed by Code**

It is the intent of city council that all of the City's personnel policies, guidelines, and procedures shall be governed by the charter and ordinances or resolutions duly passed by city council, unless otherwise authorized by council and except as otherwise authorized by this Code.

(d) **Prohibition Against Discrimination**

The provisions of the Code, shall be applied to employees without discrimination as to age, sex, marital status, race, color, creed, religion, national origin, ancestry, union affiliation, handicap and/or disability.

(e) **Waiver in Case of an Emergency**

In cases of emergency declared by the President of the United States, the Governor of the State of Ohio, the Mayor, the City Manager, or the United States Congress or the Ohio General Assembly, such as, but not limited to acts of God and civil disorder, any or all portions of this Code may be temporarily suspended by the City.

(f) **Amendments to Existing Job Descriptions**

The City may amend existing job descriptions from time to time as needed for its operational purposes. The City will present a copy of the amended job description to any affected full-time regular employee at least seven (7) days before the new job description shall take effect. If such employee believes a violation of this Code has occurred as a result of any such revision to a job description, the full-time regular employee may file a grievance as provided for in this Code. During any grievance process, any employee affected by the proposed change in job description shall use his/her best efforts to carry out his/her duties under the new job description (this Section is not applicable to any person or position defined an appointing authority or falling into the unclassified service).

## **197.03 EMPLOYEE RECORDS AND DISCIPLINE**

(a) **Access to Personnel Service Records**

Employee service records shall only be accessible by the public to the extent required or permitted by law.

(b) **Causes for Discipline**

## **(1) Applicability and Overview**

Any employee may be disciplined for just or proper cause. Violations of any municipal ordinance, statutes or other law of any political subdivision or any state, and violations of any or all city policies, rules or regulations or lawful orders shall constitute just or proper cause. Finally, any violation contained in a collective bargaining agreement shall also constitute proper cause for discipline as it relates to collective bargaining employees.

## **(2) Closure of Items Related to Discipline**

Employee's personal service record as it relates to discipline shall be marked closed for the purpose of progressive discipline in accordance with the following schedule; however, such shall be subject to the public records law:

- Reprimands

Any reprimand shall be closed from the record after one (1) year from the date of the reprimand, providing there is no intervening disciplinary action during the one (1) year period.

- Suspensions Less Than Thirty (30) Days

Any suspension of less than thirty (30) days shall be closed from the record after a period of two (2) years, providing there is no intervening disciplinary action during the two (2) year period.

- Suspensions Longer Than Thirty (30) Days

Any suspension of thirty (30) days or more shall be closed from the record after three (3) years, providing that there is no intervening disciplinary action during the three (3) year period.

(c) **Discipline Action as it Relates to Classified Employees**

Where the City deems appropriate, the City will apply a policy of progressive and corrective discipline, with the progressive steps as follows: oral reprimand; written reprimand; suspension; demotion; or, dismissal (this section is not applicable to those persons or positions considered the appointing authority or to other unclassified employees). This section is not to be construed as prohibiting suspension or dismissal without progressive discipline where the cause for such suspension or dismissal is deemed warranted by the City due to the nature or circumstances of the conduct involved.

(1) **Oral and Written Reprimands**

When it becomes necessary for a supervisor to reprimand a classified employee, it shall be done with discretion.

In the event that a supervisor finds it necessary to orally reprimand an employee and determines to keep a record of that oral reprimand, such employee shall be made aware that a record of such oral reprimand is being maintained in the City's files or records. Employees are not entitled to hearings for oral reprimands.

Classified Employees may appeal a written reprimand to a review officer designated by the appointing authority, but may not appeal the disciplinary action to the Civil Service Commission. Such review shall be informal and the rules of evidence shall not apply. A classified employee may thereafter submit a written statement to the appointing authority concerning the reprimand and outlining such employee's basis for concern, and a copy of such statement shall be appended to the copy of the reprimand in such employee's personal service record. Such statement

must be filed within ten (10) days of the determination of the appointing authority to approve a reprimand.

The supervisor shall provide the classified employee with a copy of any written reprimand or any record of oral reprimand entered in such employee's file. The classified employee shall acknowledge receipt of same by signing and dating the original copy of such record.

**(2) Procedure for (Disciplinary) Suspension, Demotion, or Dismissal.**

Classified employees shall not be suspended, demoted, or dismissed for disciplinary reasons from duty without first being afforded the opportunity for a disciplinary review before the appointing authority or his/her designee, except that, where it is necessary to immediately relieve the employee from duty due to gross misconduct, a department head or his/her designee may temporarily suspend such employee for a period not to exceed seventy-two (72) hours, excluding Saturdays, Sundays, and holidays.

When a classified employee has been suspended without a disciplinary review, such employee shall be afforded a disciplinary review before the appointing authority or his/her designee within seventy-two (72) hours, excluding Saturdays, Sundays, and holidays. The employee's pay status for the days which he/she was suspended shall be determined by the appointing authority or his/her designee at the disciplinary review.

When a classified employee is charged with a violation that is likely to result in such employee receiving a disciplinary suspension, demotion, or dismissal, the following shall apply:

- Except as provided above, the classified employee shall be given notice at least five (5) calendar days in advance of the disciplinary review and that notice shall advise such employee of the general nature of the suspected violation. The classified employee shall be advised in the notice of his/her right to be represented by counsel at such review.

Any disciplinary suspension, demotion, or dismissal may only be appealed as outlined in Section 197.03(c)(3) below and in accordance with the Civil Service Rules. ("Appeals from Disciplinary Suspensions, Demotions and Dismissals")

### **(3) Appeals from Disciplinary Suspensions, Demotions and Dismissals**

Except for probationary employees, if a classified employee has been suspended for disciplinary reasons in excess of three (3) days or demoted or dismissed due to disciplinary reasons, he/she may file an appeal before the Civil Service Commission (hereinafter referred to as the commission).

A classified employee may not waive a disciplinary review before the appointing authority and then subsequently file an appeal before the commission.

An appeal must be filed in writing within ten (10) calendar days after the

appointing authority has determined to impose or uphold, whichever is later, a disciplinary suspension, demotion, or dismissal. Any appeal not submitted to the commission within such ten (10) calendar day time period shall be deemed settled on the basis of the determination given by the appointing authority at the disciplinary review.

**(4) Powers, Duties and Limits of Authority of Commission**

The powers, duties, and limits of authority of the commission shall be as contained in City's Revised Code of General Ordinances and the Rules of the Civil Service Commission.

The decision of the commission may be appealed according to the Civil Service Rules to the Common Pleas Court of Henry County, Ohio.

Upon request, a copy of the work record shall be furnished to the classified employee.

**(5) Scheduling of Disciplinary Reviews**

Disciplinary reviews called for in this Section may be scheduled at the discretion of the department head or appointing authority, whichever is applicable, taking into consideration the employee's work shift and subsequent appropriate rest time.

**(d) Discipline Action for Unclassified Employees**



**(1) Unclassified**

Pursuant to Article V, Section 5.01 (D) of the Charter, when not otherwise established in the Charter, council may determine that certain positions and employees in the civil service of the city are classified and that others are unclassified; nevertheless, at minimum, the department heads of the police department and fire department (i.e. chief of each department) shall be subject to civil service review for suspension in excess of three (3) days and/or dismissal.

**(2) Prior to Suspension or Termination**

All compensated unclassified employees shall be given an opportunity to be heard by the authority that appointed them prior to suspension without pay or involuntary termination; however, no finding of cause need be made prior to suspending or terminating an unclassified employee. Such opportunity to be heard may be conducted in executive session when before the council unless objected to by council or the person who is the subject of the suspension or involuntary termination. The act of suspension or involuntary termination shall be in open meeting when involving the city manager, finance director or law director or any clerk of council.

**(3) Board Members or Commissions of the City**

Section 197.03(d) is not applicable to members of boards or commissions of the City, the mayor, elected or appointed members of council.

(Ord. 015-12. Passed 3-5-12.)

## **197.04 EMPLOYEE RELATIONS.**

### **(a) Employee Discussion**

In the interest of sound and harmonious employee relations, a discussion process may be established whereby, upon request by the City or employee, employees may meet and confer with members of the appointing authority (city manager, city finance director or city law director) as may be appropriate, to discuss work related issues and matters as governed by this Code.

### **Limitations**

Such discussions are not intended, nor are they in any way to be interpreted or otherwise construed, to effect changes or revisions in this Code, but are solely intended for the purpose of discussing general information of interest to the City and its employees in accordance with the provision of this Chapter. Neither the City nor its employees shall be obligated to act upon any issue or matter raised during such discussions.

### **(b) Purpose of Meetings**

The purpose of such meetings shall be limited to:

- Discuss the administration of this Code.
  
- Notify employees of changes made by the City which affect employees.

- Discuss matters of potential grievances which have not been filed.
- Disseminate general information of interest to the City and employees.
- Give employees the opportunity to share the view of employees and/or make suggestions on subjects of interest to such employees.
- Discuss ways to increase productivity and improve efficiency.
- Consider and discuss health and safety matters relating to such employees.

(Ord. 44-01. Passed 5-21-01.)

(c) **Exit Interviews**

When requested in writing, upon any employee's resignation or retirement, he/she shall be afforded the opportunity for an interview with the appointing authority and/or his/her designee. The purpose of this interview shall be to allow the employee to express reasons for resignation and/or his/her views on the operation of his/her department.

(Ord. 44-01. Passed 5-21-01.)

(d) **Grievance Procedure**

## **(1) Applicability and Overview**

This Section is not applicable to those persons or positions defined as the appointing authority or other unclassified employees.

It is the intent of the City that this grievance procedure be the sole and exclusive grievance and appeal procedure for classified employees, and any other grievance and appeal procedures shall not be applicable.

Grievances and appeals related to disciplinary matters shall be handled in accordance with the herein established grievance procedures. This Section is limited to grievances related to all other issues regarding wages, benefits, and terms and conditions of employment, excluding disciplinary action(s).

## **(2) Information Required in Grievances**

All grievances must contain the following information to be considered and must be filed using the grievance form:

- Aggrieved employee's name and signature.
- Aggrieved employee's classification.
- Date grievance was filed in writing.

- Date and time grievance occurred.
- Where grievance occurred.
- Description of incident giving rise to the grievance.
- Articles and sections of law or policies violated.
- Description of actions that will resolve the grievance.

### **(3) Limitations**

All grievances must be processed at the proper step in the progression in order to be considered at the subsequent steps. An inadequacy of the grievance form may be corrected and resubmitted so long as done within five (5) calendar days from date of return.

Such employee may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirements at any step to lapse without further appeal.

The time limits provided for herein shall be strictly adhered to. Any grievance not initially submitted or appealed to the next step within the specified time limits shall be deemed invalid or resolved based upon the City's last answer, as the case may be (an untimely grievance is void and an untimely appealed grievance is resolved based on the last answer); provided however, that any grievance not answered by the City within the stipulated time limits may be advanced by the employee to the next step in the grievance procedure. All time limits on grievances may be extended

upon mutual consent of the City and employee affected.

If an emergency occurs, rights of grievance under this Code may be suspended. Upon the termination of any emergency should valid grievances exist, they shall be processed in accordance with the provisions outlined in the grievance procedure of this Code and shall proceed from the point in the grievance procedure to which they (the grievances) had properly progressed, prior to the emergency.

#### **(4) Method of Processing Grievances**

The following procedure shall be followed:

##### **A. Step 1 - Review by Immediate Supervisor**

In order for a grievance to receive consideration under this procedure, the grievant must identify the grievance to the employee's immediate supervisor, in writing, within twelve (12) calendar days of the employee having, through the exercise of reasonable diligence, knowledge of the occurrence of the incident giving rise to the grievance. The employee's immediate supervisor shall investigate and provide an appropriate answer within six (6) calendar days following the day on which the employee's immediate supervisor was presented the grievance.

##### **B. Step 2 - Review by Department Head**

If the grievance is not resolved in Step 1, and the supervisor is not the department head, then the employee may, within six (6) calendar days of the supervisor's response, take up the grievance with his department head. The department head shall investigate and respond to the grievant within six (6) calendar days after receiving the Step 1 reply.

### **C. Step 3 - Review by Appointing Authority**

Where the grievance is filed with a member of the appointing authority, due to the absence of an immediate supervisor or department head position in that department and is not resolved accordingly, another member of the appointing authority shall be appointed to hear said grievance and render a decision in accordance with the provisions of this Step 3.

#### **(5) Scheduling of Grievance Hearings**

Grievance hearings called for in this Chapter may be scheduled at the discretion of the department head or appointing authority, whichever is applicable, taking into consideration the grievant's work shift.

#### **(6) Who May Bring Grievance**

A grievance may be brought by any employee, except: the appointing authorities, unclassified employees and employees covered by a collective bargaining agreement. Where a group of such employees desire to file a grievance involving a situation affecting each employee in the same manner, one (1) employee selected by such group may process the grievance as a class action grievance, provided each such employee desiring to be included in the class action grievance, signs said grievance and the grievance is filed in a timely manner. For the purpose of this Section timely manner shall be within seven (7) days after notice is received.

## **197.05 LAYOFF AND RECALL PROCEDURES**

**(a) Applicability**

This Section is not applicable to those persons or positions defined as the appointing authority or other unclassified employees. Further, no employee who is a member of a bargaining unit may displace a non-bargaining unit employee for the purpose of this Chapter.

When the City determines that a reduction in full-time work force or job abolishment is necessary, full-time regular employees shall be laid off in accordance with the provisions of this Chapter. Part-time, permanent part-time, or temporary employees may be laid off at any time without notice, or right of recall.

(Ord. 74-00. Passed 8-7-00.)

**(b) Layoff Notification Requirements**

In the event of a long term layoff, full-time regular employees shall be notified twenty-one (21) calendar days in advance of the effective date of the layoff. Such employees will be notified of the City's decision to implement any short term layoff (lasting seventy-two (72) hours or less) as soon as possible.

**(c) Priority of Employees Laid Off**

In the event of a layoff, whether long term or short term, full-time regular employees will be laid off in accordance with their departmental seniority by job classification (last hired, first laid off). Such employee with the least departmental seniority in the department and job title which is designated for layoff shall be



notified of the layoff and shall have the right to displace another employee at the same classification or lower classification series within the department who has less total City seniority, provided that the initially laid off employee is qualified to perform the work of the new position. Any employee displaced by this procedure shall have the right to displace another employee by the same procedure. This process may continue until the least senior employee is laid off.

**(d) Recall**

**(1) No New Hire Before Recall**

Vacancies and/or newly created positions shall be filled first by those full-time regular employees on lay off provided they are qualified to fill the new positions or vacancies, unless such laid off employee refuses a recall to the position to be filled or fails to respond to a recall notice in a timely manner.

**(2) Recall Period**

Employees who are laid off are subject to recall from lay off for a period of three hundred sixty five (365) days from date of lay off. After that time they shall be deemed to be permanently separated from City service, and no longer on layoff.

**(3) Priority of Recall**

A recall from layoff shall be based on departmental seniority by job classification

(last laid off, first recalled). Notice of recall from a long term layoff shall be by certified or registered mail. If certified or registered mail is returned as undeliverable, the City shall be deemed to have fulfilled its obligations by mailing the recall notice to the last mailing address provided by the employee by regular U.S. Mail.

#### **(4) Response Time to Recall Notices**

In the case of long term layoff, the employee shall have fourteen (14) calendar days following the date of mailing the recall notice to notify the City of his/her intention to return to work, and shall have ten (10) calendar days following notification to the City of his/her intent to return to work in which to report for duty, unless a different day for returning to work is otherwise mutually agreed.

### **197.06 RESIDENCY REQUIREMENTS**

(a) Except as otherwise provided herein, all employees of the City are required to reside within Henry County, Ohio, or within an adjacent county thereto within this State.

(b) Paid part-time employees of the Fire/Rescue Department that are firefighters or emergency medical technicians or the like, or a combination thereof, and paid part-time employees of the Police Department, not to be construed as solely volunteer personnel, are required to reside within fifteen (15) miles of the Henry County Courthouse. The herein mentioned radii shall be construed as a straight line and not as driven miles. All other paid part-time employees of the City, regardless of paid part-time class, are exempt from the residency requirements of the City. Nothing herein shall be construed as to provide for grandfathering as it relates to residency should a part-time employee obtain full-time employee status; further, dual employees,

meaning for the purpose of this provision, employees working in two (2) capacities of the City, one full-time and one paid part-time, shall meet the most restrictive residency requirement.

(c) Unless otherwise exempted, any employee of the City employed after the effective date of this section shall meet residency requirements within 365 days of employment with the City, except that the City Manager, City Finance Director and City Law Director shall meet residency requirements within 180 days of employment with the City.

(d) For purpose of continuing employment with the City, notwithstanding any other provision, policy, rule, resolution or ordinance, except the provision found in paragraph (f) hereof, full-time regular employees (salary or hourly) employed by the City on or prior to April 16, 2007, regardless of probation status, shall have 180 days to meet the residency requirements of the City; moreover, full-time regular employees (salary or hourly) employed by the City after April 16, 2007, but before the effective date of this section, regardless of probation status, shall have 365 days from the effective date of this section to meet the City's established residency requirements.

(e) The appointing authority as appropriate, shall suspend from service any employee who fails to meet residency requirements as required by this section, until such time as the employee has met City residency requirements. In the event the suspension exceeds two (2) weeks in duration, the employee may be dismissed from the City service.

(f) Unless otherwise prohibited by law, this section shall not be construed as to limit the enforceability of any residency provision found in a collective bargaining agreement between the City and a collective bargaining unit; further, nothing herein shall be construed as to limit the ability of an appointing authority of the City to require residency of its volunteers.

(Ord. 095-07. Passed 11-19-07.)

## **197.07 CITY ORGANIZATION CHART**

**(a) City Manager to Maintain Chart**

The city manager shall maintain an organization chart of all full-time positions in the City service. Amendments to this chart may be made only after approval by motion of council.

**(b) Position Classification Plan**

**(1) Administration**

The city manager shall be responsible for administering the position classification plan. The city manager may assign other employees under manager's authority to assist him/her in this activity.

**(2) Allocation of New Position**

The director of his/her department or designee shall complete or have completed a position description covering the duties and responsibilities of each proposed position. The city manager shall allocate the position to one (1) of the classes in the position classification plan. If a suitable class does not exist, he/she shall establish a new class and allocate the position to it.

(Ord. 44-01. Passed 5-21-01.)

**(3) Allocation Appeals**

If an employee has facts which indicates to him/her that his/her position is improperly allocated, he/she may request the city manager to review the allocation of this position. Such request shall be submitted in writing and shall contain a statement of justification.

**(4) Amendments to The Position Classification Plan**

Each time it appears desirable to establish a new class of positions or to abolish a current class of positions, the city manager shall effect such a change by issuing an amendment to the position classification plan. Notice of such change shall be circulated to the mayor, council, city law director, city finance director, and all department heads.

**(5) Interpretation of Class Specifications**

The class specifications are descriptive and not restrictive. They are intended to indicate the kinds of positions which shall be allocated to the classes established. In a series of classes, such as the engineering classes, the specifications for all classes should be reviewed as a unit.

**(6) Maintenance of the Plan**

Maintenance of the organizational plan shall be in accordance with subsections (b)(6)A. to (b)(6)E., both subsections inclusive.

**A. On Vacancy of Position**

Each time a vacancy occurs, a position description shall be completed and submitted to the city manager for a review of the allocation of the position. This requirement may be waived by the city manager in cases where changes in the duties and responsibilities of a position have been minimal.

**B. On Reorganization of Department**

Each time a department is reorganized, position descriptions for all affected employees shall be submitted to the city manager for his/her review.

**C. On Request of City Manager**

The city manager may require department heads or supervisors under his/her authority to submit position descriptions on a periodic basis, or any time he/she has reason to believe that there has been a change in the duties and responsibilities of one (1) or more positions. The city manager may request other directors, and the directors shall furnish upon request of the city manager, position descriptions on a periodic basis, or any time he/she has reason to believe that there has been a change in the duties and responsibilities of one (1) or more positions. (Ord. 44-01. Passed 5-21-01.)

**D. On Establishment of Any Class**

Each time a new class is established, a class specification shall be written and incorporated into the existing plan. The class title shall be added to the schematic list of titles. Likewise, an abolished class shall be deleted from the position classification plan by removing the class specification and eliminating the class title from the schematic list of titles.

## **E. Biennial Review**

The city manager is responsible to conduct a general review of the position classification plan at least once every two (2) years.

### **(7) Official Copy of the Position Classification Plan**

The city manager shall be responsible for maintaining an official copy of the position classification plan. The official copy shall include regulations for administration, schematic list of class titles and class specifications, plus all amendments thereto. A copy of the official plan shall be available for inspection by the public under reasonable conditions during business hours.

### **(8) Position Vacancies, Maximum Number of Employees**

The employment positions set forth in the plan indicate the various types and kinds of work which the City expects to require. Under normal operations, some positions may be filled only occasionally or intermittently, and others may not be filled at all. The presence of an employment position or job classification in this plan does not imply or require that the City shall keep such position or job filled at all times or at any particular time, nor maintain any particular number or quota of employees in any position or job classification.

## **197.08 PRECONDITIONS FOR EMPLOYMENT**

### **(a) Age Requirements for Police and Fire Departments**

No police officer shall be hired who is younger than twenty-one (21) years of age. No fire or rescue person shall be hired who is younger than eighteen (18) years of age. There shall be no maximum age limit for officers of the police, fire or rescue divisions.

### **(b) Character, Criminal Records**

The City shall not employ any person who has been convicted of a felony, nor employ any person otherwise prohibited from holding a position in public service.

### **(c) No Political or Religious Tests**

Consideration of political or religious opinions as a test for employment or promotion in any position of the City service shall not be practiced. Membership in any organization shall not be required of any employee.

### **(d) Physical Examinations**

Full-time employment with the City of Napoleon shall be contingent, and part-time,



permanent part-time or temporary employment may be contingent on passing a physical examination by a physician designated by the City, at the City of Napoleon's expense, after an offer of employment, to determine that employees are physically capable of performing the essential job duties.

(e) **Probationary Period**

All newly appointed classified employees shall serve a probationary period of one (1) year. An employee shall not receive credit toward completion of the probationary period for absence from work for any approved time off in excess of five (5) work days.

Newly hired classified employees shall have no seniority during their probationary period. Upon completion of the probationary period, their seniority date shall be the original date of current appointment for the purpose of: (1) determining the employee's entitlement to all fringe benefits; and (2) determining the employee's continuous service date.

Probationary employees are only entitled to benefits such as health, overtime, compensatory time, paid leave, retirement pickup and other such similar type benefits when and as provided elsewhere in this code for non-probationary employees, unless otherwise stated. What is considered a similar type benefit shall be at the sole determination of the appointing authority.

(Ord. 093-08. Passed 12-15-08.)

## **197.09 PROMOTIONS, ASSIGNMENTS AND TRANSFERS**

(a) **General**

The City has exclusive control of promotion, assignment and transfer of all employees. Unless otherwise provided, when an employee is in the competitive civil service, such employee will be required to competitively test for promotion.

In assigning of employees to special positions, duties, or assignments, the City will offer to the extent possible, these positions, duties, or assignments to all qualified personnel and the City shall consider the following criteria in determining who shall serve in the available position, duty, or assignment and each criteria will be given the weight deemed appropriate by the appointing authority as it relates to the position, duty, or assignment:

- Experience;
- Specialized training;
- Job evaluations;
- Seniority (City and departmental);
- Physical & mental capabilities that are essential to the job duties;
- Current title; and
- Impact of the assignment upon other operations of the City.

**(b) Probationary Periods for Transfers and Promotions: Noncompetitive**

If a full-time regular employee in the classified service is promoted or transfers voluntarily from one (1) department to another, in a non-competitive position, he/she shall be subject to a thirty (30) calendar day probationary period. The employee shall have ten (10) working days in which to voluntarily return to his/her former position. The City may return the employee to his/her former position at any time during the probation period.

If a full-time regular employee in the classified service is involuntarily transferred from one (1) department to another, in a noncompetitive position, he/she shall be subject to a probationary period of one hundred and eighty (180) days. If he/she should be unsuccessful in his/her new position he/she may be laid off if no other suitable position exists within the City.

**(c) Transfers Within City**

If a full-time regular employee of the classified service voluntarily transfers to another department within the City, such employee will lose all departmental seniority rights previously earned in his/her pre-transfer department, and will be placed at the bottom of the seniority list of the department to which he/she has transferred.

In the case of non-disciplinary involuntary transfers to another City position, such employee will retain all seniority rights which he/she would have had if he/she had not been transferred.

**(d) Vacancies in the City**

(1) Except in the case of rehire, where the City's policy on rehire shall control, when a non-competitive classified vacancy occurs in a position within the City, the appointing authority shall, when practical, cause to be posted such position for a period of at least ten (10) business days and first consider employees within the department division and then the department where the vacancy exists and next consider employees generally within the City's services. "First consider" shall mean, with all other things being equal, the person within the division or department where the vacancy exists shall be given the utmost consideration for filling the vacancy. "Employee" as used in the context of this provision includes, full-time regular, permanent part time, part time, and temporary employees. The City appointing authority may hire from outside the City services, without necessity of posting, when deemed by the appointing authority it not practical to post or fill the position by transfer. Only when posted within the City services may an employee apply for the position by proper filing of a transfer application therefor. If such employee is granted the position applied for, such position shall be considered a voluntary transfer.

(2) A person serving in a paid part-time position with the City's Fire and Rescue Department and who applied for a vacant position by transfer may accept the new position that is the subject of the transfer without vacating his or her current paid part-time position, unless otherwise determined by an affected appointing authority.

(3) Nothing in this section shall be construed as to prohibit the appointing authority from simultaneously posting the position within the City services and advertising outside the City services; moreover, nothing in this section shall be construed as to prohibit the appointing authority from not filling the position by transfer when a more qualified person is available outside the City services who is ready, willing and able to accept the position.

(4) When a vacant position is posted internally, an interview should be afforded to employees of the City meeting the minimum qualifications that have properly applied for the vacant position.

(5) In the case of original appointment or promotion within the competitive classified positions, civil service examinations and procedures shall apply to the extent required.

(e) **Step Increases When Transferred.**

When an employee is involuntarily transferred from one position to another, any step increase eligibility shall be on the employee's original hire anniversary date as if the employee was not transferred. If any employee makes a voluntary transfer, an employee must complete probation within the new classification prior to being eligible for any step increase, such eligibility being on the employee's original hire anniversary date. In the event that the voluntary transfer employee's original hire anniversary date passes while an employee is on probation, then the step increase eligibility shall be immediate upon completing probation and said employee will be eligible for an additional step increase at the employee's next immediate original hire anniversary date. Finally, in the event that an employee returns to his/her prior classification and missed a step increase in that prior classification, he/she shall be placed in the step as if never vacating the position effective on the date of such occurrence. Any increase shall be subject to successful performance evaluation. Nothing in this provision shall be construed as requiring any step increase.

(Ord. 51-05. Passed 8-1-05.)

## **197.10 HIRING OF SEASONAL AND TEMPORARY WORKERS**

### **Restrictions**

If a laid off employee is hired as a part-time, permanent part-time, or temporary employee he/she shall be paid the rate and shall receive only those benefits, if any, allowed for such position. Such employment shall not constitute a "recall" within the meaning nor subject to the provisions of Section 197.05.

(Ord. 74-00. Passed 8-7-00.)

## **197.11 SAFETY ~~COMMITTEE~~ WORK GROUP**

A safety ~~committee~~ *WORK GROUP* made up of those members that serve in or under the Department of Management as deemed appropriate by the City Manager shall be established by the City Manager. *THIS IS NOT A BOARD OR COMMITTEE OF CITY COUNCIL AND IS NOT A "PUBLIC BODY" AS DEFINED IN ORC 121.22.* The purpose of the Safety Committee is to ~~develop~~ *DISCUSS* safety policies and procedures for City operations for the approval of the City Manager, which, upon approval shall have the full force and effect of any other rule or regulation established by the City.

An employee within the Department of Management may be required to be a member of and to participate in the City's safety ~~committee~~ *WORK GROUP*.

Enforcement of safety policies so established will be the same as for any other work rule established by the City. (Ord. 015-12. Passed 3-5-12.)

## **197.12 SENIORITY**

Except as may otherwise specifically be provided for in this Code, seniority shall be computed on the basis of an employee's uninterrupted length of continuous service with the City. For the purpose of this section, all paid leaves are considered uninterrupted continuous service; moreover, unpaid leaves as follows, shall not be considered an interruption of continuous service: suspensions, military leave during the time a person is eligible for reinstatement, injury leave for injuries occurring on duty, FMLA leave and pregnancy/temporary disability leave. An employee who is laid off and then is properly reinstated to City service within one year from the date of the layoff is credited with continuous service time for the period spent in layoff status. Likewise, up to a maximum of six months will be credited for time spent on an approved unpaid leave of absence, except when the leave of absence is for outside employment, including self-employment, then the employee shall receive no credit during the leave. Nothing in this section shall be construed as superseding or modifying provisions of this Code and policies of the City concerning how probationary periods are calculated. Department seniority when transfers are

involved are controlled by Section 197.09(c).

(Ord. 13-04. Passed 3-1-04.)

### **197.13 POLICY, PROCEDURES AND WORK RULES**

#### **(a) Policies and Procedures**

The city manager, city finance director, and city law director, as appropriate, are authorized to establish work rules and policies not inconsistent with this Code without council approval. Any policy or procedure manual so established shall be distributed to all affected full-time regular employees before taking effect, and copies shall be made available for review of affected part-time, permanent part-time, or temporary employees.

(Ord. 74-00. Passed 8-7-00.)

#### **(b) Establishment of Work Rules**

Work rules may be established by department heads, subject to approval of the appointing authority.

#### **(c) Complaints of Non-Uniform Application of Rules**

Any complaint involving the non-uniform application of work rules, policies and procedures or any complaint involving a conflict between the terms of this Code and work rules, policies and procedures may be resolved through the grievance

procedure.

**(d) Employees to Observe Rules**

This Section shall not be interpreted in any manner to relieve an employee of his/her responsibilities to follow the established uses, rules, and procedures necessary to preserve the good order and discipline of the City whether or not such rules and procedures have been reduced to writing. New employees shall be informed of all written work rules, policies and procedures in existence at the earliest possible time, and no later than sixty (60) days following their date of hire.

**(e) Notification of Rule Changes**

Copies of changes in existing work rules, shall be provided to employees six (6) calendar days before they are to take effect unless an emergency is declared by the appointing authority that is promoting the rule change.

(Ord. 44-01. Passed 5-21-01.)

**(f) Rules to be Interpreted Uniformly**

Work rules shall be interpreted and applied uniformly to all similar employees under similar circumstances.

## **197.14 HOURS OF WORK AND COMPENSATION**

**(a) Work Week For Employees**



The standard normal work week for full-time regular employees shall be forty (40) hours, (except that certain fire department personnel work a fifty-three (53) hour work week) exclusive of lunch or other meal periods (except employees of the Police and Fire Departments as well as employees of the Water Treatment Department and the Wastewater Treatment Department are inclusive of lunch or meal period). The City will use its best efforts to schedule employees' days off such that the days off are contiguous.

This section is intended to define the normal hours of work in effect at the time of execution of this Code, and shall not be construed as a guarantee of work per day or per week.

The work week is considered to be from Monday 12:00 a.m. through the following Sunday 11:59 p.m. with exception of the Police Department which is Monday 7:00 a.m. through the following Monday 6:59 a.m.

**(b) Longevity Pay Plan**

May be paid as established by separate legislation.

**(c) Overtime – Hourly Paid Employees**

**(1) Applicability**

This Section is not applicable to those persons or positions defined as the appointing authority or other salary status employees. For all hourly employees, including fire and rescue personnel, work performed means, actually worked and does not include leave of any type.

**(2) Advance Approval Required to Work Overtime**

Any overtime hours must be authorized in advance by the appropriate supervisor.

**(d) Compensatory Time**

With approval of the department head or appointing authority, employees, except Police Lieutenants and Assistant Chiefs of the Fire/Rescue Department, that are eligible for overtime pay may have the option of overtime pay or compensatory time off in lieu of overtime pay for hours worked in an overtime status to a maximum accumulation of sixty (60) hours at any one time, regardless of carryover. Police Lieutenants and Assistant Chiefs of the Fire/Rescue Department that are eligible for overtime pay may have the option of overtime pay or compensatory time off in lieu of overtime pay for hours worked in an overtime status to a maximum of one hundred (100) hours at any one time, regardless of carryover. Any accumulated balance of unused compensatory time shall be paid off on the first pay period in December, unless otherwise permitted to be carried over by the applicable department head or appointment authority.

Employees shall not be eligible for compensatory time credit for any hours for which they were otherwise compensated.

**(1) Rate of Credit of Compensatory Time**

Compensatory time shall be credited at the appropriate overtime rate (either one and one half rate or double rate) for each hour of authorized overtime worked.

**(2) Submission in Writing**

All requests for credit of compensatory time must be submitted in writing during the pay period in which the overtime was worked. Such request shall show the date and time when compensatory time was earned.

**(3) Rules for taking Compensatory Time Off**

Compensatory time off shall be subject to advance approval by the employee's department head or appointing authority. Not less than one (1) hour of compensatory time shall be taken off on any one (1) day.

**(4) Conversion to Overtime Pay**

Any employee shall be permitted to transform accumulated compensatory hours into overtime payment, in minimum blocks of eight (8) hours, upon seven (7) days notice to the payroll department of the City. The seven (7) day notice requirement shall be waived in the case of termination of employment with the City.

**(5) Minimum Call-out Time**

Except as provided in the Section below entitled "Court Appearance Time", when an employee is required to and does report back to work at a time not contiguous to his regular scheduled work shift, ~~thus necessitating additional travel to and from work, he/she shall be guaranteed a minimum of one (1) hour pay at the overtime rate, for each time he/she is called in.~~ **ONE (1) HOURS PAY. HOWEVER, ADDITIONAL CALLOUTS DURING ANY ONE (1) HOUR CALLOUT PERIOD WILL NOT RESULT IN ADDITIONAL GUARANTEED ONE (1) HOUR MINIMUM PAY (NO PYRAMIDING).**

#### **(6) Court Appearance Time**

Any employee, who is required to return to work in order to make a City related court appearance at a time not contiguous to the beginning or end of his/her shift, shall be paid for a minimum of three (3) hours time at the appropriate overtime rate. If the employee is held beyond the minimum three (3) hour period, he/she shall be compensated at the appropriate overtime rate to the nearest one-quarter (1/4) hour for the time his/her presence is required for such court appearance.

If the employee is normally scheduled to work between the hours of 7:00 p.m. and 7:00 a.m. and spends more than five (5) hours in court, he/she shall not be required to work, if scheduled that day. He/she may instead charge eight (8) hours to sick leave, provided he/she notifies the current supervisor at least two (2) hours prior to the beginning of his/her shift of his/her intention not to report for work under the provisions of this Section.

#### **(7) Actual Call-out Time**

Actual call-out time shall be defined as the time between the following limits:

- The earlier of the time of arrival at the work site, or the time of arrival at the appropriate work facility, and
- The time of departure from the work site or from the appropriate work facility whichever is later.

If an employee is called back to work again after leaving from an earlier call-out he/she shall be deemed to have been called out again.

#### **(8) Overtime - Basic Rate**

All work performed in excess of ~~eight (8) continuous hours or in excess of the~~ regular forty (40) hour work week, shall be overtime and shall be compensated at the rate of time and one half (1-1/2) times the employee's regular rate of pay, except as provided below.

#### ~~(9) Overtime in Excess of Eight Hours~~

~~Any authorized hours of overtime worked in excess of eight (8) continuous hours of overtime shall be payable at twice the employee's regular rate of pay. This shall not apply to the first eight (8) hours worked on a holiday by an employee who is regularly scheduled to work on that holiday.~~

~~(10)~~ **(9) Requirement to be Available to Work Overtime**

It is an essential aspect of employment with the City that all employees make themselves available for overtime work. Employees who do not make themselves available and/or who otherwise refuse to work overtime on a regular or repeated basis or during emergencies (declared or otherwise) when requested to do so, and who do not have a bona fide reason for such unavailability and/or refusal, may be subject to disciplinary action, including dismissal.

~~(11)~~ **(10) Part-time, Permanent Part-Time, Temporary Employees (Overtime)**

For part-time, permanent part-time or temporary firefighters and emergency medical technicians (EMT's) to be eligible for overtime, such employee must work in excess of one hundred and six (106) hours for a bi-weekly pay period (work period) (fourteen (14) days).

For part-time, permanent part-time or temporary employees (not firefighters or EMT's) to be eligible for overtime, the employee must perform work in excess of forty (40) hours in a work week, ~~regardless if they work over eight (8) hours in any given work day,~~ except that any employee working in a City amusement or recreational establishment (example: public pool, golf course) that is open less than seven (7) months is exempt from any overtime rate of pay.

~~(12)~~ **(11) Full-time Non Bargaining Firefighters or EMTs.**

For full-time firefighters and emergency medical technicians (EMTs) who are not in the collective bargaining unit, and work a twenty-four (24) duty day, to be eligible for overtime, such employee must perform work in excess of fifty-three (53) hours per week or in excess of the regular twenty-four (24) hour duty day. When such employee is required to report back to work at a time not contiguous to his/her regularly scheduled duty day, thus necessitating additional travel to and from work, he/she shall be guaranteed a minimum of one (1) hour pay, (two (2) hours pay when so reporting back to work occurs between the hours of midnight and 5:00 a.m.), at his/her overtime rate for each call back to work.

For the purpose of this section, the term "report back" shall be defined as a specific and actual time that the employee returns to work only.

**(e) Overtime - Salaried employees**

**(1) Applicability**

This section is applicable to those persons or positions defined as the appointing authority and other employees that may be exempted from being paid the overtime rate pursuant to the provisions of the Fair Labor Standards Act.

**(2) General**

In the case of salaried positions of managerial and professional employees, it is implicit in the nature of their positions that time beyond the normal work schedule may often be necessarily spent on the job for which no additional compensation is permitted.

**(3) Salaried Employees**

Salaried employees are required to work the hours necessary to complete the work tasks. Although expected to work a normal forty (40) hour week, it is also understood that such employee may work less or more hours without deduction or additional compensation. Any abuse of this provision shall be determined by the council when dealing with appointees of council and determined by the appointing authority when dealing with salaried employees under their authority, as deemed appropriate by such authority.

**(f) Paid Lunch Periods**

If the City determines that an hourly employee is required to remain at the work site for the entire length of a period of eight (8) hours or more, then the employee shall be permitted a one-half (1/2) hour paid lunch break during said period, provided the employee shall make him/herself available to respond to work demands during the lunch period if the need arises. Refusal to respond to work demands during lunch period if the need arises will be subject to discipline, including dismissal.

**(g) Pay Plan**

**(1) Administration**

The appointing authority shall be responsible for administering the pay plan for his/her respective department. Each appointing authority shall be responsible for making arrangements to ensure that the administration of the plan for all employees within his/her respective department is on an equitable basis.

**(2) Interpretation**



The appointing authority shall be responsible for interpreting the application of the plan to all pay questions which are not specifically covered by this regulation, using the principles expressed herein as a policy guide.

### **(3) New appointees**

A new employee shall normally be paid the minimum rate of pay for his/her class. Exceptions may be granted in the following cases upon the written prior approval of the appointing authority.

#### **A. Appointments of Individuals With Less Than Minimum Qualifications**

The minimum rate of each class is based upon the assumption that a new employee meets the minimum qualifications stated in the class specification. If it becomes necessary to appoint a new employee of lesser qualifications, he/she should be started below the minimum rate of the class.

#### **B. Appointments of Individuals With More Than Minimum Qualifications**

If a new employee more than meets the minimum qualifications and will not accept appointment at the minimum rate of the class, he/she may be appointed at a higher step. Cases should be thoroughly analyzed and measured against objective standards as determined by the appointing authority.

#### **(4) Pay Changes - Promotions, Transfers, Demotions and Reallocations**

##### **A. Promotions to Higher Class**

When an employee is promoted to a position in a higher class, his/her base pay shall be increased to the minimum rate for the higher class. In the case of overlapping ranges, the promoted employee shall be increased to the step immediately above his/her present base pay.

##### **B. Transfers Voluntary**

An employee who voluntarily transfers into another position shall so transfer at the current minimum base pay rate of the position into which the employee transfers, unless experience, skill, and position constitute being transferred at a higher pay rate, as shall be solely determined by the appointing authority.

##### **C. Demotions**

When an employee is demoted to a lower class position, he/she shall be paid at a rate which is within the approved range for the lower class position. The rate of pay shall be set by the appointing authority.

##### **D. Reallocations Downward**

When an employee's position is reallocated to a lower class of positions (non-disciplinary), the employee shall be permitted to continue at his/her present rate (except in event of general service wide reductions), but such employee shall not be entitled to any base pay increase by any mechanism whatsoever, until and unless the sum of the base rate of pay for the reallocated position in the newly established level and class of the employee, plus any longevity pay entitlements of the employee applied to the base pay of the new level and class would become greater than the actual present pay rate of the employee.

#### **E. Reinstated Employees**

A reinstated employee shall be paid at a base pay within the approval range for the position to which he/she is reinstated. The appointing authority will establish the rate of pay.

#### **F. Rates for Classes to be Established by Ordinance**

The class plan rates of pay for each class of positions prescribed in the position classification plan for the City shall be changed by and rates of pay for new classes of positions shall be established by council in the form of ordinances, or amendments thereto which provide for such rates.

#### **(h) Rest Periods**

Hourly employees may schedule with department head up to two (2) fifteen (15) minute rest periods during each work day which is scheduled to last eight (8) hours or more. Each rest period shall be taken at the work site, and shall in no circumstances exceed fifteen (15) minutes in length from the time productive work ceases until it begins again. Rest periods shall not be scheduled or taken in the first one and one half (1-1/2) hours of the work day.

(i) **Retirement Contribution Pick-Up**

May be established by the City in separate legislation.

(j) **Salaries and Wages**

Executive and management officers and employees' salaries for the following executive and management officers and employees shall be established by ordinance or resolution:

- City Manager
- City Finance Director
- City Law Director

(k) **Total Remuneration**

The salary or hourly rate, plus reimbursement for expenses incurred by approved use of private automobile on City business, uniform allowance, official travel expense, and any special provisions outlined in this pay plan shall be the total remuneration for any employee. [Except as otherwise provided herein, no employee covered by this plan shall receive pay from the City in addition to that authorized under the schedules provided in the pay plan for services rendered by him/her, either in the discharge of his/her duties, or any additional duties which may be

imposed upon him/her or which he/she may undertake or volunteer to perform.]

**(l) Shift Differential Pay - Non-Bargaining Hourly Employees in the Police Department**

Non-bargaining hourly employees in the Police Department working between the hours of 3:00 p.m. and 11:00 p.m. (2nd shift) shall receive shift premium pay at the rate of two and one quarter (2-1/4%) percent of their rate of pay for those hours worked. Those non-bargaining hourly employees in the Police Department working between the hours of 11:00 p.m. and 7:00 a.m. (3rd shift) shall receive shift premium pay at the rate of two percent (2%) of their rate of pay for those hours worked (whether that be regular time, overtime, or acting time pay for either shift). (Ord. 093-08. Passed 12-15-08.)

**197.15 MAJOR PAID BENEFITS**

**(a) Hospital and Medical Benefits**

**(1) Applicability**

This section (Major Paid Benefits) applies to all members or officers of the appointing authority and other full-time regular employees, both classified and unclassified; specifically exempt from this section are members of city council, the mayor, and, except as herein provided, the judge of the municipal court. Section 197.15(d) (Pensions) applies to members of council and the mayor. The judge of the municipal court shall receive City shared contributions towards benefits as contained in this Section 197.15 to the extent permitted by law. Unless specifically authorized for part-time, permanent part-time or temporary employees by this Code or other controlling law, such part-time, permanent part-time or temporary employees are not eligible for major benefits, paid leave, or any other benefits described in this Code.

**(2) Scope of Health Benefits**

Subject to reasonable cost containment measures, the City provides group hospitalization, surgical, and extended medical benefits for each full-time regular employee in accordance with the benefit schedule provided in the City's plan as on file in the office of the City Finance Director marked "City of Napoleon Health Benefit Plan (#HBP-1)" and as may be amended from time to time by resolution of Council. The Health Benefit Plan shall include covered services, co-pays and premium contribution.

**(b) Life Insurance**

A death benefit, *FOR NON-BARGAINING EMPLOYEES*, in the amount of thirty thousand dollars (\$30,000) shall be paid, under the terms of an insurance policy, to the designated beneficiary of a full-time regular employee of the City upon his/her death, providing such death occurs after the employee has completed thirty (30) days from the date of employment and the first of the month thereafter. Each employee shall furnish the City with a beneficiary designation. In the event the employee has failed to designate a beneficiary then the benefit shall be made to his/her estate, upon the application of the legal representative. The City will provide a certificate of insurance to each employee.

**(c) Leaves of Absence - Continuation of Premiums**

Upon the written request of an employee on leave of absence, the City will continue the employee's coverage under the group life and health insurance plans, and will pay its share of the premiums for such plans in accordance with the provisions of this section for a maximum of thirty (30) days, except as otherwise provided in Section 197.19(g) of this code and except as otherwise provided by law that supersedes this code. On the first day of the month following the commencement of the employee's leave of absence, the employee will then and thereafter be solely responsible for the payment of all subsequent such premiums.

(d) **Pension Funds**

Employees shall be provided coverage under the Public Employees Retirement - System or Police and Fireman's Disability and Pension Fund as appropriate.

(e) **Severance Pay**

Upon retirement, death, resignation, or termination, employees shall be paid for all, if any accumulated but unpaid vacation, holidays, regular pay and overtime pay, or compensatory time due and owed to them as of their last date of employment. In case of death, the above payments shall be made to the employee's estate or designated survivor(s).

(f) **Unemployment Compensation/Workers Compensation**

Employees shall be provided unemployment compensation coverage and workers compensation as required by law. (Ord. 093-08. Passed 12-15-08.)

**197.16 PAID LEAVES OF ABSENCE**

(a) **Applicability**

The provisions of this chapter shall apply only to employees who are full-time regular employees unless otherwise expressly applied to other than full-time regular employees. This chapter (Paid Leaves of Absence) shall also expressly apply to members or officers of the appointing authority and other full-time regular unclassified employees, excluding elected officials. Nothing in this provision (a) shall be construed as prohibiting the limiting or restricting of applicability of a leave policy to “key employees” as may be provided in a specific policy.

**(b) Applications for Time Off and Scheduling of Time Off**

The following guidelines will be followed when applying for and authorizing time off. Vacation, holidays, personal holidays, and compensatory time are considered time off. Any and all combinations of the above may be used when applying for time off.

Number of Days Off	Minimum Notice
less than 5	7 days
5 plus	35 days

To reserve vacation time, employees must apply for their vacations by November 25th of the year prior to the year the vacations will be taken and priority for time off within the above categories will be determined by departmental seniority from an employee's most recent employment date. With regard to any vacation application received after November 25th, priority for time off within the above categories will be determined by departmental seniority from an employee's most recent employment date only when employees apply for vacation on the same calendar day. Advanced application for vacation may be made so long as the employee will have credited the requested hours at the time the employee's vacation is to commence; however, an employee may not, in advance, lock in vacation dates for multiple years.

Exceptions to minimum notice may be permitted subject to the approval of the



appropriate supervisor.

Authorization of time off is subject to availability of personnel, and the recognized City objective of minimizing overtime paid.

(c) **Bereavement Leave**

(1) **General**

A full-time regular employee may be granted a leave of absence with pay to attend the funeral of a member of his/her immediate family. Such leave of absence will be granted between the day of death until and including the day of the funeral, not to exceed three (3) calendar days and shall not be charged against the employee's accumulated sick leave.

Immediate family, for the purposes of this Section, shall be defined as the employee's grandparents, brother, sister, father, father-in-law, mother, mother-in-law, spouse, child, stepchild, grandchild, or legal guardian.

A full-time regular employee shall be granted a one (1) day leave of absence with pay to attend the funeral of his/her spouse's brother, sister and grandparents, or the employee's son-in-law, daughter-in-law, aunt and uncle.

In the event of the death of any other relative of an employee, the employee shall, upon request, be excused for one (1) day to attend the funeral, with such leave day being deducted from the employee's accumulated vacation, compensatory time, personal holiday, or sick leave balance at the employee's discretion. Alternatively, the employee may elect to take an unpaid leave day.

**(2) Additional Bereavement Leave**

Additional leave may be granted, at the discretion of the department head, or appointing authority whichever is applicable, for travel or such other related purposes, with such additional leave days being deducted from the employee's accumulated vacation, compensatory time, personal holiday, or sick leave balance at the employee's discretion. Alternatively, the employee may elect to take the leave unpaid.

**(3) Notification Requirements for Bereavement Leave**

The employee must notify his/her supervisor of the purpose of his/her absence as soon as possible but not later than one (1) hour prior to his/her scheduled starting time on the employee's first day of such absence from scheduled duty. The employee may be asked to provide to the department head, or appointing authority, whichever is applicable, verification of the death, relationship, and funeral date.

**(d) Personal Holidays**

Except as herein provided, each employee shall be entitled to five (5) personal holidays per calendar year to be taken on any work day chosen by the employee and approved in advance by the employee's supervisor or the appointing authority, whichever is applicable. During the first calendar year of employment, the number of personal holidays, or portion thereof, shall be prorated based upon the month in which the employee is hired. An employee hired on December 1 or later shall have no personal holidays for that year. Personal holidays must be taken prior to the last day of the last complete pay period of the calendar year or they will be lost. Personal holidays from year to year cannot be accumulated.

For officers of the police department, any holidays banked shall be taken prior to the last day of the last complete pay period in November, or they will be converted to eight (8) hours cash payment on the first pay of December.

Instead of what has been stated above, the Assistant Chief of the fire/rescue department shall be entitled to five (5) personal days or one hundred twenty (120) hours each calendar year.

**(e) Sick Leave**

**(1) Crediting of Sick Leave**

Except as otherwise provided, sick leave credit shall be earned at the rate of 0.0575 hours for each hour of service only in active pay status, up to a maximum yearly accumulation of one hundred twenty (120) hours. Unused sick leave credit shall accumulate from year to year without limit. Effective September 1, 2000, of the non-full-time regular status employees, only permanent part-time employees shall earn sick leave credit and at the same rate as full-time regular employees; however, any other part-time or temporary employee that received such benefit prior to September 1, 2000 shall retain the same until such time is otherwise exhausted.

The Assistant Chief of the fire/rescue department may accumulate a maximum of one hundred ninety-two (192) sick leave hours each calendar year; however, in no event shall the Assistant Chief of the fire/rescue department accumulate more than three thousand six hundred (3,600) total hours.

**(2) Retention of Sick Leave**

An employee who formerly worked for another public agency shall be given credit

for any accumulated but unused sick leave provided that the employee was hired by the city within ten (10) years of the date on which the employee was last terminated from public service, and further provided that deduction from such sick leave credit shall be made for any payment or credit given by the previous agency in lieu of taking sick leave.

Unless otherwise provided by a specific ordinance or resolution of council pertaining to employment or previously authorized by the City, the sick leave so credited (transferred) may be used only to extend sick leave coverage while in the employment of the City, and only after all sick leave earned at the City has been exhausted; further, unless otherwise provided, such credited (transferred) sick leave may not be used in computing sick leave payout at retirement or additional (sick leave conversion) vacation leave purposes.

This provision shall not narrow or reduce the amount of sick leave credit received, nor shall it narrow or reduce a current sick leave balance, a sick leave conversion right or sick leave payout, as was previously authorized, of any person who is employed by the City at the time of this Code enactment.

### **(3) Expiration of Sick Leave**

If illness or disability continues beyond the time covered by earned sick leave, the employee may be granted further leave in accordance with the City's FMLA policy, or other applicable leave policies, subject to qualification.

### **(4) Charging of Sick Leave**

Sick leave shall be charged in minimum units of one-quarter (1/4) hour. An employee shall be charged for such leave only for days upon which he/she would otherwise have been scheduled to work. Sick leave payment shall not exceed the normal scheduled work day or work week earnings.

#### **(5) Uses of Sick Leave**

Sick leave shall be granted to an employee who qualifies for sick leave only upon approval of the City and for the following reasons:

Illness or injury of the employee that requires time off from work.

Illness or injury to a member of an employee's immediate family when care or attendance by the employee is necessary requiring time off from work.

Medical, dental or optical examination or treatment of an employee or a member of his/her immediate family which requires the employee to take time off work, and which cannot be scheduled during non-working hours or, when a member of the immediate family of an employee is afflicted with a contagious disease that requires the care and attendance of the employee or when, through exposure to a contagious disease the presence of the employee at his/her job would jeopardize the health of others.

For the purpose of this section, immediate family shall include the employee's father, mother, spouse, child, without regard to residency and will include a stepchild if in the employee's residence. The immediate family provisions contained herein shall be for a limited period of time (not to exceed three (3) consecutive days per week) to enable the employee to secure other arrangements for the care of the member of his/her immediate family, except as may be approved by the employee's

appointing authority in unusual and exceptional circumstances.

\* Notwithstanding any other provision in this section, pregnancy, childbirth and other related medical conditions and temporary disability requiring the necessity of an employee to take time off work, will be considered, subject to qualification, under the FMLA and pregnancy and temporary disability policies of the City. In cases where any other leave qualifies, the applicable leave policy shall control in accordance with the City's Employment Policy Manual.

#### **(6) Evidence Required for Sick Leave Usage**

Any employee requesting sick leave shall be required to furnish a satisfactory written signed statement to justify the use of sick leave.

If medical attention is required, a certificate stating the nature of the illness from a physician shall be required to justify the use of sick leave. Falsification of either a written, signed statement, or a physician's certificate may be grounds for disciplinary action including dismissal.

#### **(7) Notification by Employee**

When an employee is unable to report to work, he/she shall notify his/her immediate supervisor, or other designated person, one (1) hour before the time he/she is scheduled to report to work on each day of absence, unless emergency conditions make it impossible, or other arrangements have been made in advance with the supervisor.

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

Employees failing to comply with sick leave rules and regulations shall not be paid for the period of time missed from work. Application for sick leave with intent to defraud will result in denial of pay to cover the day(s) in question and may result in disciplinary action up to and including dismissal. If pay has been received for sick leave for which there was no entitlement, the City shall have the right to recover from the employee any money wrongly paid.

Sick leave shall not be paid to any employee for time off of work which results from any action within the control of the employee such as intentional self-inflicted wounds, use of illegal drugs, alcoholic beverages, or injury sustained while committing a felony or other criminal action. This provision shall not apply to sick leave used for the purposes of participating in bona fide drug treatment, alcohol treatment, or mental health treatment programs.

## **(9) Physician Statement**

Employees on sick leave on more than three (3) consecutive working days shall be required to furnish a certificate from a physician notifying the City that the employee is unable to perform the job, and may be required to present a like certificate from a physician upon the employee's return to work indicating his/her fitness and ability to perform the job.

In addition, employees shall also be required to furnish a certificate from a physician for each illness of less than three (3) days duration, for each occasion which exceeds any one (1) of the following calendar year limits:

- Two (2) occasions per employee for the employee's illness, for which no physician's certificate was presented and/or two (2) occasions per family member, for which no physician's certificate was presented; however, the total occasions per calendar year shall not exceed four (4).

Exceptions may be made to the limits listed above in certain circumstances, and only upon advance written approval of the department head or the appointing authority, whichever is applicable.

Employees may be required to furnish a certificate from a physician for each illness of less than three (3) days duration, for each occasion which is less than any one (1) of the calendar year limits shown above, if the City has reasonable suspicion that sick leave abuse is occurring or will occur.

Where sick leave is requested to care for a member of the immediate family, the City may require a physician's certificate to the effect that the presence of the employee is necessary to care for the ill person.

**(10) Physical Examination**

The City may require an employee to take an examination, conducted by a physician, to determine the employee's physical or mental capability to perform the job. If determined incapable of doing so as a result of such examination, the employee may be placed on paid leave of absence, unpaid leave of absence, or disability separation. The cost of such examination shall be paid by the City.

**(11) Sick-Leave Payout**

Unless otherwise provided or modified by a specific ordinance or resolution of Council pertaining to employment, or unless otherwise declined by the employee, or otherwise deferred by the employee in anticipation of rehire by the City, any employee who retires or otherwise departs service, other than an involuntary departure, after ten (10) years of continuous service with the City or who dies in service after five (5) years of continuous service with the City, except part-time permanent employees, shall be compensated for accumulated but unused sick leave at the time of retirement or death in the form of a lump sum payment at the rate of:



- One (1) day's pay for every four (4) days of accumulated but unused sick leave up to nine hundred sixty (960) hours; the remaining time shall be at the rate of one (1) day's pay for every three (3) days of accumulated but unused sick leave.
- Such lump sum payment shall reduce to zero (i.e., eliminate) the employee's sick leave credit.

An employee's "daily base rate" or "day's pay" shall be figured by dividing the employee's annual base rate at the time of retirement or voluntary departure by 2080 hours and multiplying that base hourly rate figure by eight (8) hours.

The death benefit payment shall be made to the beneficiary designated by the employee in writing on a form provided by the City. In the event that there is no such valid designation, the payment shall be made to the employee's estate upon application of the legal representative thereof.

In the case of sick leave payout being deferred in anticipation of rehire by the City, the sick leave reconciliation shall be made as provided for in this section. A rehired employee shall be entitled to use all or part of the deferred sick leave so long as it is used in accordance with use of sick leave policies of the City. Any deferred sick leave amount may be demanded for payment by the earner of the sick leave at anytime in accordance with the sick leave payout schedule, so long as the sick leave is not used or otherwise transferred to another governmental entity. In any event, full reconciliation and settlement of deferred sick leave payout shall be completed not later than twenty-four (24) months after last employment with the City.

## **(12) Sick Leave Conversion**

An employee with a sick leave balance in excess of nine hundred and sixty (960) hours may use a portion of such excess sick leave as vacation time by converting

three (3) sick leave days for each one (1) day of vacation time. An employee may convert up to a maximum of fifteen (15) such excess sick leave days per calendar year. However, such conversion shall not be permitted if payment of overtime to another employee becomes necessary as a result. This provision is subject to the provisions contained in Section 197.18 of this Code (Vacations).

**(f) Legal Holidays**

**(1) Effects of Vacations and Days Off on City Observed Legal Holidays**

When one (1) of the City observed legal holidays falls within an eligible employee's approved vacation period or scheduled day off, he/she shall be entitled to holiday pay for the legal holiday in lieu of his/her vacation pay. Those employees who work "shift work" may elect to receive the pay, to bank the holidays, or to bank the vacation day. Except for salary employees, shift work employees who work on any of the herein City observed legal holidays listed shall have the option of electing one (1) of the following when applied for in writing by the employee to the payroll department prior to the next scheduled pay period following the holiday:

Receive eight (8) hours holiday pay plus one and one-half (1-1/2) times their regular rate of pay for all time worked, except in the case of the Assistant Chief of the fire department position(s) which shall receive 11.2 hours holiday pay plus one and one-half (1-1/2) times his/her regular rate of pay for all time worked.

Receive an additional banked holiday (to be taken off prior to the ending of the next to last full pay period of the current fiscal year) plus receive one and one-half (1-1/2) times their regular rate of pay for all time worked. If the additional banked holiday is not taken off by the end of the next to last full pay period of the year it shall be paid in cash for eight (8) hours at straight time (except for the positions of Assistant Chief of the fire/rescue department which shall be 11.2 hours) rate payable the first pay in December of the current fiscal year.

**(2) Observance Days**

For employees who have a regular work schedule other than Monday to Friday, the observance of the holiday shall be on the day of such City observed legal holiday. For those employees whose regular schedule is Monday to Friday, City observed legal holidays that fall on a Saturday will be observed on Friday, and City observed legal holidays that fall on Sunday will be observed on Monday.

**(3) Schedule of Observed Legal Holidays**

The following are the paid City observed legal holidays:

January 1, Good Friday (being the Friday immediately prior to Easter Sunday), Memorial Day (being the last Monday in May), July 4th, Labor Day (being the first Monday in September), Thanksgiving (being the fourth Thursday in November), December 25th, and an additional floating holiday as specified below:

If December 25th is Sunday, then December 25th will be recognized on December 26th and an employee shall also receive December 27th as the additional floating holiday.

If December 25th is Monday, then an employee shall also receive December 26th as the additional floating holiday.

If December 25th is Tuesday, then an employee shall also receive December 24th as the additional floating holiday.

If December 25th is Wednesday, then an employee shall also receive the day after Thanksgiving as the additional floating holiday.

If December 25th is Thursday, then an employee shall also receive December 26th as the additional floating holiday.

If December 25th is Friday, then an employee shall also receive December 24th as the additional floating holiday.

If December 25th is Saturday, then December 25th will be recognized on December 24th and an employee shall also receive December 23rd as the additional floating holiday.

In addition to what has been stated herein, President's Day shall be considered a legal holiday for the Assistant Chief of the fire/rescue department position(s); regardless, President's Day shall not be construed as a legal holiday for the City for any other purpose.

#### **(4) Failure to Work on Holiday**

To become eligible for holiday pay, the employee must work the full last scheduled work day prior to, and the full next scheduled work day after, each of the City observed legal holidays listed unless the employee was otherwise in active pay status.

Employees who are scheduled to work on a designated City observed legal holiday and do not report for work on the holiday shall not be entitled to holiday pay unless

their reason for not reporting would ordinarily constitute an acceptable excuse under the applicable provisions of this Code.

(Ord. 093-08. Passed 12-15-08.)

## **197.17 TRAUMA LEAVE**

**Applicability:** This Chapter is applicable to full-time regular employees of the classified service.

If a full-time regular employee in the classified service, while acting in his/her official capacity, is involved in an incident resulting in death or permanent disfigurement or disability to a person, or witnesses the death or permanent disfigurement or disability of a fellow employee, or witnesses the death of a person due to the application of deadly force by another, that employee shall receive trauma leave upon request of the employee to relieve the stress which has resulted from such incident.

The duration of such trauma leave shall be approved by the appointing authority. However, under no circumstances shall such trauma leave exceed thirty (30) days.

While on such trauma leave, the employee shall receive his/her normal rate of pay for such days, and they shall not be charged to his/her sick leave or any other accumulated but unused leave time.

Prior to his/her return to work, the City shall require the employee to take an examination, conducted by a physician, to determine if the affect of the trauma is relieved to the extent that the employee is both physically and mentally capable to perform the essential duties of the job. If determined incapable of doing so as a result of such examination, the employee may be placed on paid leave of absence,

unpaid leave of absence, or disability separation. The cost of such examination shall be paid by the City.

(Ord. 44-01. Passed 5-21-01.)

## **197.18 VACATIONS**

### **(a) Entitlement Restrictions**

Except as otherwise provided in Section 197.18(h), full-time regular employees are entitled to vacation with pay after one (1) year of continuous service in the most recent employment with the City and will be due only upon the completion of the first year of said employment, calculated from hire date. The amount of vacation leave to which an employee is entitled is based upon length of service and calculated and earned on a biweekly basis as follows:

Full-time regular employees (except Assistant Chief of the fire/rescue department positions)

<u>Years of Service</u>	<u>Annual Hours</u>	<u>Bi-Weekly Accrual Hours</u>
0 year but less than 6 years	80 hours	3.077 hours/each normal pay
6 years but less than 12	120 hours	4.616 hours/each normal pay
12 years or more	160 hours	6.154 hours/each normal pay

Full-time Assistant Chiefs of the fire/rescue department positions:

0 year through 1	48 hours	1.85 hours/each normal pay
2 years through 8	120 hours	4.62 hours/each normal pay
9 years through 15	192 hours	7.385 hours/each normal pay
16 years or more	240 hours	9.231 hours/each normal pay

(b) **Effect of Time Spent on Authorized Leave of Absence**

Time spent on any authorized leave of absence, whether paid or unpaid, shall be counted in determining length of service for purposes of vacation eligibility.

(c) **Scheduling of Vacations**

Vacations will be arranged to give consideration to the desire of the employee in accordance with a procedure established by the employee's department head which will not interfere with City operations.

(d) **Vacations to be Taken During Year After Earned**

Except for the first year of service, accrued vacation leave may be taken by an employee at any time after accrual and entitlement, subject to the minimum increments established, so long as properly scheduled in accordance with other provisions of this Code, policy manual or work rule. An employee shall not allow his/her total vacation time to exceed eighty (80) hours his/her maximum accrual entitlement for any employment year (considered for the purpose of this Section as

being from the employee's anniversary date to the employee's next anniversary date) without prior approval from the appointing authority. This provision is applicable to accrued vacation as a result of sick leave conversion which is authorized in Section 197.16(e)(12) of this Code. When carryover is requested by a department director, such approval may be by the council president, with notification to the body of council, or merely by the body of council.

(e) **Vacation Forfeiture**

Employees shall forfeit their right to take or to be paid for any vacation leave to their credit which is in excess of any authorized balance; moreover, any vacation time accrued in the first year of service shall be forfeited if any employee fails to complete one (1) year of continuous service.

(f) **Accrual**

Vacation leave is accrued only while on active pay status, excluding overtime and in accordance with Section 197.18(a).

(g) **Lump Sum Payment of Vacation**

In the event an employee is denied the opportunity to schedule and take accrued vacation leave due to operational needs of the City, or in the event an employee fails to schedule and take accrued vacation leave due to the operational needs of the City, the appointing authority may authorize a year-end lump sum payment to the employee in an amount not to exceed the monetary value of the employee's annual vacation accrual as provided in Section 197.18(a). In the case of a department director, lump sum payment may be approved by the council president, with notification to the body of council, or merely by the body of council.

(h) **Prior Service Credit.**



A. Except as otherwise provided for in separate legislation, and except as otherwise specifically excluded by a collective bargaining agreement under Ohio R.C. 4117, to determine prior service for the purpose of computing the amount of vacation leave for an employee first employed on or after July 5, 1987 by the City of Napoleon, the employee shall have only his or her prior service with the City of Napoleon counted. Those employees (not elected officials) who were employed by the City of Napoleon prior to July 5, 1987 shall have all their public service with the State of Ohio or any of its political subdivisions credited pursuant to Ohio R.C. 9.44 (A). An employee who has retired in accordance with the provisions of any retirement plan offered by the State of Ohio and who is employed by the State of Ohio or any political subdivision of said State on or after June 24, 1987, shall not have his or her prior service with the State of Ohio or any political subdivision of said State counted for the purpose of computing vacation leave. (*ORD 059-13. PASSED 11-18-13.*) ~~except as otherwise herein provided. An employee who retired from the City of Napoleon in accordance with the provisions of any retirement plan offered by the State of Ohio and who retired from the City of Napoleon after August 1, 2005, shall upon rehire to a full-time regular position with the City of Napoleon, be granted the same service credit the retiree received just prior to his or her retirement and thereafter the service credit shall increase on an annual basis.~~

B. Except as may be otherwise provided for by separate legislation, employees entitled to prior service credit for purpose of computing vacation leave shall have their anniversary date deferred to their most recent date of employment with the City of Napoleon for purposes of: (1) vacation use or, (2) any use or forfeiture policy regarding vacation.

C. Elected officials are not entitled to prior service credit for purpose of calculating vacation benefit, if any. (Ord. 093-08. Passed 12-15-08.)

## **197.19 OTHER LEAVES OF ABSENCE**

### **(a) Leave of Absence In General**

**(1) Application**

The provisions of this Chapter shall apply only to full-time regular employees. This Chapter shall, unless otherwise stated, also apply to members or officers of the appointing authority, except members of city council and the mayor.

**(2) Authorization of unpaid leave**

The authorization of a leave of absence without pay is a matter of administrative discretion. The City shall decide in each individual case if a leave of absence is to be granted, within the limitations of this Code.

**(3) Sick Leave Credit and Vacation Credit**

An employee on leave of absence without pay does not earn sick leave or vacation credit. However, the time spent on authorized unpaid leave of absence is to be counted in determining length of service for purpose of calculating vacation eligibility or other purposes where seniority is a factor, unless otherwise stated to the contrary in other applicable ordinance or resolution.

**(4) Falsification of Leave**

Any leave of absence obtained through false representation, deceit, or fraud may be cause for disciplinary action up to and including dismissal.

**(5) Reinstatement From Leave**

Upon completion of a leave of absence, the employee is to be returned to the position formerly occupied, or to a similar position if the employee's former position no longer exists. Any replacement in the position while an employee is on leave is to be on a temporary basis.

**(b) Court Leave**

Court leave with pay will be granted to an employee who is summoned and required to appear for jury duty by the United States, the State of Ohio, or a political subdivision during regular working hours. Court leave with pay will be granted to any employee subpoenaed and required to appear as a plaintiff, defendant, or witness in a criminal or civil matter related to City business so long as the action in controversy is not a controversy between the City and the employee so appearing.

Employees will not be entitled to court leave when appearing in court for criminal or civil cases being heard in connection with the employee's personal matters, such as traffic court, divorce proceedings, custody, appearing as directed with juvenile, etc. Such absences may be charged to leave without pay, vacation or other accumulated compensable time upon approval of the employee's supervisor.

Employees shall honor any subpoena issued to them including those for Worker's Compensation and Unemployment Compensation.

Employees are expected to report for work if, after court or jury duty responsibilities are met, two (2) hours or more of the employee's regularly

scheduled shift remains.

All moneys received as compensation, unless jury duty was served totally outside of regular working hours, shall be turned over to the City.

(c) **Temporary Disability Leave**

Temporary disability leave shall be considered, subject to qualification, under the pregnancy and temporary disability leave policy of the City as contained in the City's Employment Policy Manual.

(d) **Injury Leave**

Injury leave shall be considered, subject to qualification, under worker's compensation or the FMLA or pregnancy and temporary disability leave policies of the City as contained in the City's Employment Policy Manual.

(e) **Reinstatement after Injury or after Leave Due to Injury**

(1) **General.**

An employee who is absent due to Injury Leave as defined in the Section (Injury Leave), or who has been separated from service due to injury or physical disability incurred in the performance of duty, will be considered for reinstatement only through the reinstatement application process, provided that such application shall be filed not later than the earliest of the following:

- Twenty four (24) months after the injury occurred; or,
- Twelve (12) months after leave from service under the provisions of this Chapter; or,
- The date of service eligibility retirement.

**(2) Payment of Accumulated Sick Leave after Injury**

Except for part-time, permanent employees, any employee who is permanently separated from City service due to a service related disability compensated by the Ohio Bureau of Workers Compensation or the appropriate Retirement System Fund, as a result of a bodily injury received in the line of duty, shall receive a lump sum payment for one-half (1/2) of his/her accumulated but unused sick leave. Such lump sum payment shall reduce the employee's sick leave credit to zero. If the one-half (1/2) lump sum payment has not been made before the employee dies, the designated beneficiary of any employee who dies as a proximate result of such an injury shall receive payment for the full balance of the accumulated but unused sick leave.

**(f) Military Leave**

All employees who are members of the Ohio National Guard, the Ohio Defense Corps, the Naval Militia, or members of other reserve components of the Armed Forces of the United States are entitled to leave of absence from their respective duties without loss of pay for such time not to exceed a total of thirty-one (31) days in any one (1) calendar year. If while on active duty the employee's total gross wages are less than what they earn in City employment, the City will pay the employee the salary difference. If while on active duty the employee's total gross military wages are equal to or greater than what they earn in gross wages through City employment, the employee will not receive any salary reimbursement from the City.

- The employee is required to submit to his/her supervisor an order or statement from the appropriate military commander as evidence of such duty. There is no requirement that the service be in one (1) continuous period of time. The maximum number of hours for which payment may be made in any one (1) calendar year under this provision is one hundred seventy six (176) hours. Compensation received for the above purposes, not to exceed one hundred seventy six (176) hours, shall be submitted to the city finance director upon return from such duty, or as soon as possible. The city finance director will give the employee a receipt for the same.
  
- Employees who have worked for the City for at least thirty (30) calendar days will be granted a leave of absence without pay to be inducted or to otherwise enter military service. They are not paid for such leave unless they are members of reserve components as specified in the first paragraph of this Section.
  
- An appointment may be made to fill a vacancy created when an employee enters military service. However, if the person filling such a vacancy also enters military service he/she may be reinstated to the position after completion of service only if the first employee (the original incumbent) fails to apply to reinstatement within ninety (90) days of discharge or made written waiver of all rights to the position.
  
- An employee who voluntarily re-enlists while on active duty or a commissioned officer who voluntarily enters into extended duty beyond that required upon accepting a commission, is not eligible for reinstatement.
  
- Employees who are members of the Ohio National Guard will be granted emergency leave for mob, riot, flood, civil defense, or similar duties when so ordered by the Governor or assist civil authorities. Such leave will be without pay if it exceeds authorized paid military leave for the year. This leave will cover the official period of the emergency.
  
- Except for veterans that voluntarily re-enlist while on active duty or who voluntarily enters into extended duty beyond that required, a veteran separated or discharged under honorable conditions must in order to be reinstated, make

application for re-employment to the former position within ninety (90) days from the date of release from service, or within ninety (90) days after release from hospitalization due to in service injury or illness which has not exceeded a period of more than one (1) year.

The following procedure will apply:

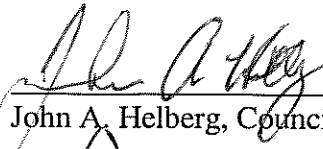
- A copy of a discharge or certificate of service must accompany all requests for reinstatement or reappointment;
- If a proper copy of discharge or certification is in order, reinstatement shall be accomplished within thirty (30) days after application is received by the appointing authority;
- Any change in classification or pay range which would have accrued to the position if the employee had been on the job shall apply.

**(g) Unpaid Personal Leave**

Any unpaid personal leave of absence requested must be submitted to the department head and approved by the appointing authority or his/her designated representative at least three (3) working days prior to the start of such leave. Unless otherwise specified, unpaid personal leave of absence is without benefits. Unpaid personal leave of absence, if approved, shall not exceed thirty (30) day intervals, and unless otherwise specified, shall be granted or denied at the discretion of the appointing authority or his/her designated representative.

Unpaid personal leaves of absences will generally not be granted for the purpose of working elsewhere, which includes self-employment.

Passed: August 4, 2014

  
John A. Helberg, Council President

Approved: August 4, 2014

  
Ronald A. Behm, Mayor

VOTE ON PASSAGE 7 Yea 0 Nay 0 Abstain

Attest:

  
Gregory J. Heath, Clerk/Finance Director

*I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. 042-14 was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.*

\_\_\_\_\_  
*Gregory J. Heath, Clerk/Finance Director*



(d) **Vacations to be Taken During Year After Earned**

Except for the first year of service, accrued vacation leave may be taken by an employee at any time after accrual and entitlement, subject to the minimum increments established, so long as properly scheduled in accordance with other provisions of this Code, policy manual or work rule. An employee shall not allow his/her total vacation time to exceed eighty (80) hours his/her maximum accrual entitlement for any employment year (considered for the purpose of this Section as being from the employee's anniversary date to the employee's next anniversary date) without prior approval from the appointing authority. This provision is applicable to accrued vacation as a result of sick leave conversion which is authorized in Section 197.16(e)(12) of this Code. When carryover is requested by a department director, such approval may be by the council president, with notification to the body of council, or merely by the body of council.

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An employee shall not allow his/her total vacation time to exceed his/her maximum accrual entitlement for any employment year without prior approval from the appointing authority. For the purpose of this Section, the twelve month span of time between employee's anniversary date is an employment year.

This provision is applicable to accrued vacation as a result of sick leave conversion which is authorized in Section 197.16(e)(12) of this Code. When carryover is requested by a department director, such approval may be by the council president, with notification to the body of council, or merely by the body of council.