

ORDINANCE NO. 06122012

AN ORDINANCE TO REPEAL ORDINANCE 03 11 2008 IN ITS ENTIRETY AND SUBSUTITE THE FOLLOWING TO ESTABLISH A PERSONNEL POLICY FOR THE TOWN OF BRIGHTON, TENNESSEE.

BE IT ORDANINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF BRIGHTON, TENNESSEE:

SECTION 1 - PERSONNEL POLICY

- A. **PURPOSE.** The purpose of this resolution is to establish a system of personnel administration in the Town of Brighton, Tennessee.
- B. **AT-WILL EMPLOYER.** The Town of Brighton, Tennessee is an at-will employer. Nothing in this ordinance may be construed as creating a property right or contract right to any job for any employee.
- C. **COVERAGE.** The following personnel are not covered by this policy, unless otherwise provided:
 - 1. All elected officials.
 - 2. Members of appointed boards and commissions.
 - 3. Consultants, advisers, and legal counsel rendering temporary professional service.
 - 4. The city attorney.
 - 5. Independent contractors and/or contract employees.
 - 6. Volunteer personnel.
 - 7. The city judge.

All other employees of the municipal government are covered by this personnel policy. Each individual department may have its own set of personnel guidelines to complement these policies. If a conflict in policy exists, the department's personnel manual supersedes this policy.

SECTION 2. EMPLOYEES

- A. **FULL TIME.** Full-time employees are individuals employed by the municipal government who normally work 40 hours or more per week.
- B. **PART-TIME.** Part-time employees are individuals who may not work on a daily

basis or work on a daily basis fewer than 8 hours a day and may work fewer than 40 hours per week or who are temporary and/or seasonal employees. Part-time employees may receive employee benefits depending upon the terms of their employment. Any employee benefits provided to part-time employees will be approved by the Board of Mayor and Aldermen and shall be listed in the employee's letter of employment.

- C. **JOB TITLES.** All full-time positions shall have a job title assigned.
- D. **COMPENSATION.** Employees shall be compensated in accordance with the annual budget appropriations.

SECTION 3 - HIRING PROCEDURES

- A. **POLICY STATEMENT.** The primary objective of this hiring policy is to insure compliance with the law and to obtain qualified personnel to serve the citizens of the Town of Brighton. The Town of Brighton shall make reasonable accommodations in all hiring procedures for all persons with disabilities.
- B. **APPLICATION.** Applications for employment will only be accepted when positions are open and will only be considered active until the position is filled.
- C. **INTERVIEWS.** All appointments will be preceded by an interview with the Mayor and/or department head.
- D. **PRE-APPOINTMENT EXAMS.** For certain positions, the employee may be required to undergo a **validated** physical agility examination **related to the essential functions of the job, validated** written and/or oral tests **related to the essential functions of the job**, drug testing, and, upon a conditional offer of employment, a medical examination to determine the employee's ability to perform the essential functions of the job. Reasonable accommodations shall be made in the physical agility exam for applicants with disabilities making a request for accommodations.
- E. **APPOINTMENTS, Etc.** All appointments shall be made by the Mayor.

SECTION 4 - BENEFITS

- A. **HOLIDAYS** - Generally, full-time employees are allowed a day off with pay on the following holidays:
 - 1. New Year's Day
 - 2. Martin Luther King Jr. Day

3. Memorial Day
4. Independence Day
5. Labor Day
6. Veteran's Day
7. Thanksgiving
8. Day After Thanksgiving
9. Christmas Eve
10. Christmas Day

Employees must be in a pay status on the work day before and on the work day after the holiday, unless otherwise excused by the supervisor, to receive compensation for the holiday.

Any employee required to work on a regular holiday shall be granted 8 hours off on an alternate day approved by the supervisor or an additional 8 hours pay for the holiday.

- B. **VACATION LEAVE** – The below vacation leave shall apply to all employees employed after final passage of this ordinance. All current employees shall retain their current vacation leave rates.

All full-time employees of the municipality shall accrue vacation leave monthly upon the completion of each calendar month of service. Vacation leave will begin to accrue after six (6) full months of employment, but cannot be taken until the employee has completed twelve (12) months of employment. As the number of years of service increases, the amount of leave granted increases and may accumulate to the maximum accrual as shown in the table below:

Years of Service	Vacation Per Month	Maximum Accrual
0 – 4 years _____	6.67 Hours	80 Hours
5 – 9 years _____	10 Hours	120 Hours
10 years plus	13.33 Hours	160 Hours

FIREFIGHTERS SHALL ACCRUE AT THE FOLLOWING RATES

Years of Service	Vacation Per Month	Maximum Accrual
0 – 4 years _____	8.62 Hours	103 Hours
5 - 9 years _____	12.93 Hours	155 Hours
10 years plus	17.23 Hours	207 Hours

Vacation leave exceeding the maximum accrual limit shall be forfeited.

Request for Leave form must be filled out and approved by the employee's supervisor and the Mayor. The signed form should be turned in along with the employee's time sheet to the payroll clerk. Vacation leave shall be taken at a time approved by the employee's supervisor and the Mayor. Upon separation, employees are entitled to be reimbursed for any unused vacation leave, not to exceed the maximum accrual allowed for the years of service completed.

- C. **SICK LEAVE** – All full-time employees shall accumulate 6.67 hours (fire fighters 8.62 hours) of sick leave with pay for each month of work completed for the municipality. Sick leave will begin to accrue after six (6) full months of employment. Sick leave may be granted for any of the following reasons:

1. Personal illness or physical incapacity resulting from causes beyond the employee's control.
2. Exposure to contagious disease so that employee's presence at work might jeopardize the health of other employees.
3. Medical, dental, optical or other professional treatments or examinations.
4. Acute illness or death of a member of the employee's immediate family (i.e., spouse, parents, children).

Sick leave shall be taken in hourly increments. The Town may require a physician's excuse from the employee. An employee may not accumulate more than 240 hours of sick leave (fire fighters 310 hours). Employees shall not be paid for unused sick leave upon the employee's termination, resignation or retirement.

- D. **UNEXCUSED ABSENCES.** Employees may be granted leave without pay if all paid leave has been exhausted and the time off is granted by the Mayor or such

other officer as he may designate.

- F. **BEREAVEMENT LEAVE.** It is the policy of the City to provide all regular, full-time and part-time employees time off without loss of pay due to the death of an immediate family member as defined below.

An employee who is absent during his/her regularly scheduled work week due to the death of an immediate family member shall receive payment for reasonable and customary days absent, such days of payment not to exceed three (3) regularly scheduled work days. Immediate family shall be deemed to include (1) spouse; (2) child, stepchild; (3) parent, stepparent, foster parent, parent-in-law; (4) sibling(s); and (5) grandparents and grandchildren.

Employees will be granted this leave without deduction from their vacation or sick leave balances.

In addition to the three (3) regularly scheduled work days, sick leave not to exceed five (5) days may be granted at the discretion of the appropriate approving authority in the instance of death of one of the immediate family members listed above.

SECTION 5. GRIEVANCE PROCEDURES

GRIEVANCE POLICY - The purpose of this section is to prescribe uniform disposition procedures of grievances presented by individual employees. A grievance is a **written** question, disagreement, or misunderstanding concerning administrative orders involving only the employee's **work area**, reasonable accommodations under Americans with Disabilities Act, physical facilities, **unsafe** equipment, or **unsafe** material used. **The grievance must be submitted within five (5) working days of the incident causing the grievance.**

Employees must remember that there is no grievance until the department head or other appropriate person has been made aware of the dissatisfaction **by written notice**. Once this is done, the following steps are to be taken:

- Step 1.** Discuss the problem with the immediate supervisor. If satisfaction is not obtained, the grievance is advanced to the second step.
- Step 2.** Discuss the problem with the appropriate department head. If the grievance is not resolved, it is advanced to the third step along with all documentation.
- Step 3.** Discuss the problem with the Mayor of the municipality. The Mayor's decision is the last and final step in the process. The decision of the

Mayor is final and binding to all parties involved.

SECTION 6 - STATE AND FEDERAL PERSONNEL MANDATES

- A. **DISCRIMINATION PROHIBITED** - The municipality is an equal opportunity employer. Except as otherwise permitted by law, the municipality will not discharge or fail or refuse to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of the individual's race, color, religion, gender, or national origin, or because the individual is forty (40) or more years of age. The municipality will not discriminate against a qualified individual with a disability because of the disability in regard to job application procedures, hiring or discharge, employee compensation, job training, or other terms, conditions, and privileges of employment. (Title VII of Civil Rights Act of 1964 - 42 U.S.C. §§2000e - 2000e-15; Equal Pay Act 1963 - 29 U.S.C. §206(d); Age Discrimination in Employment Act - 29 U.S.C. §§621 et seq.; Americans With Disabilities Act - 42 U.S.C. §§506 et seq.)
- B. **SEXUAL HARASSMENT PROHIBITED** - Sexual harassment by any employee or elected or appointed official of the municipality will not be tolerated. Sexual harassment is unwanted sexual conduct, or conduct based upon sex, by an employee's supervisor(s) or fellow employees or others at the work place that creates a hostile work environment, makes decisions contingent on sexual favors, or adversely affects an employee's job performance. Examples of conduct that may constitute sexual harassment are: sexual advances, requests for sexual favors, propositions, physical touching, sexually provocative language, sexual jokes, and display of sexually-oriented pictures or photographs.

Any employee who believes that he or she has been subjected to sexual harassment should immediately report this to their supervisor or the Mayor. Within the limits of the Tennessee Open Records Law, the municipality will handle the matter with as much confidentiality as possible. There will be no retaliation against an employee who makes a claim of sexual harassment or who is a witness to the harassment.

The municipality will conduct an immediate investigation in an attempt to determine all the facts concerning the alleged harassment. If the municipality determines that sexual harassment has occurred, corrective action will be taken. The municipality will attempt to make the corrective action reflect the severity of the conduct. If it is determined that no harassment has occurred, this will be communicated to the employee who made the complaint, along with the reasons

for the determination.

- C. **OCCUPATIONAL SAFETY AND HEALTH** - The municipality shall provide job safety and health protection for all employees in accordance with the Occupation Safety and Health Administration (OSHA) Legislation (29 U.S.C. §§656 et seq.) and the Tennessee OSHA Law (T.C.A. 50-3-101 et seq.).
- D. **OVERTIME COMPENSATION** - The Fair Labor Standards Act (FLSA) shall govern the overtime compensation of municipal employees (29 C.F.R. §§ 553.1 et seq.).
- E. **MILITARY LEAVE / VETERANS' RE-EMPLOYMENT**- All employees who are members of reserve components of the armed forces, including the National Guard, are entitled to leave while engaged in "duty or training in the service of this state, or of the United States, under competent orders," and they must be given such leave with pay not exceeding 20 working days in any one calendar year (T.C.A. 8-33-109). Also, any employee of the municipality who leaves his / her job, voluntarily or involuntarily, to enter active duty in the armed forces may return to the job in accordance with Veterans' Re-employment Rights (38 U.S.C. §202-2016) and the Tennessee Military Leave Act (T.C.A. 8-33-101 et seq.).
- F. **COMMERCIAL DRIVER'S LICENSE** - All employees that drive (1) a vehicle with a gross weight of more than 26,000 pounds; (2) a trailer with a gross weight of more than 10,000 pounds; (3) a vehicle designed to transport more than 15 passengers, including the driver; and (4) any size vehicle hauling hazardous waste requiring placards are required to have a Tennessee Commercial Driver's License in accordance with T.C.A. 55-50-101 et seq. Fire truck, police vehicle, and emergency medical vehicle operators are exempt from the CDL requirements.
- G. **EMPLOYEE DRUG TESTING** – All employees in safety-sensitive positions are subject to alcohol and drug testing in accordance with the Department of Transportation (DOT) Omnibus Transportation Employee Testing Act of 1991 (P.L. 102-143, Title V) and the Natural Gas Pipeline Safety Act (49 CFR Part 199). All employees may be subject to drug and alcohol testing at any time without notice. Any employee involved in a work related accident must submit to a drug and alcohol test. Employees who refuse to be tested are subject to be terminated from employment by the Town of Brighton.
- H. **EMPLOYEE RIGHT TO CONTACT ELECTED OFFICIALS** - No employee shall be disciplined or discriminated against for communicating with an elected official. However an employee may be reprimanded for making untrue allegations concerning any job-related matter (T.C.A. 8-50-601--604).

- I. **CIVIL LEAVE** - Civil leave with pay shall be granted to employees for the following reasons:
 - 1. Jury duty (T.C.A. 22-4-108)
 - 2. To answer a subpoena to testify for the municipality.
- J. **VOTING** - When elections are held in the state, leave for the purpose of voting, if requested, shall be in accordance with T.C.A. 2-1-106.
- K. **POLITICAL ACTIVITY** - Employees have the same rights as other citizens to be a candidate for state or local political office (except for membership on the municipal governing body) and to participate in political activities by supporting or opposing political parties, political candidates, and petitions to governmental entities. No employee may campaign on municipal time or in municipal uniform **nor use municipal equipment or supplies in any campaign or election** (T.C.A. 7-51-1501).
- L. **TRAVEL POLICY** - All employees, including elected and appointed officials, are required to comply with the municipality's travel policy, as required by T.C.A. 6-54-901.

SECTION 7 - MISCELLANEOUS PERSONNEL POLICIES

- A. **OUTSIDE EMPLOYMENT** - No full-time employee of the municipality may accept any outside employment without written authorization from the Mayor.
- B. **USE OF MUNICIPAL TIME, VEHICLES, FACILITIES, ETC.** - No employee may use or authorize the use of municipal time, facilities, equipment, or supplies for private gain or advantage to oneself or any other **person, group, or organization other than the municipality. Decisions about aid to charitable, civic or other organizations will be made exclusively by the governing body.**
- C. **ACCEPTING OF GRATUITIES** - No employee shall accept any money, other considerations, or favors from anyone other than the municipality for performing an act that he/she would be required or expected to perform in the regular course of his/her duties. No employee shall accept, directly or indirectly, any gift, gratuity, or favor of any kind that might reasonably be interpreted as an attempt to influence his/her actions with respect to the municipality's business.

SECTION 8 - DISMISSAL

- A. **AT-WILL.** Employees may be dismissed for cause, for no cause, or for any

cause as long as it does not violate federal and/or state law or the municipal charter.

- B. **NAME-CLEARING HEARING.** A name-clearing hearing will be given to any terminated, demoted, or suspended employee that requests one. This hearing will not be conducted to provide an employee any property rights. The purpose of the hearing is solely to let the employee clear his / her name.

SECTION 9 - PERSONNEL POLICY CHANGES

Nothing in this ordinance may be construed as creating a property right or contract right to the job for any employee. The provisions of this personnel policy may be unilaterally changed by resolution of the governing body from time to time as the need arises.

SECTION 10 - EFFECTIVE DATE

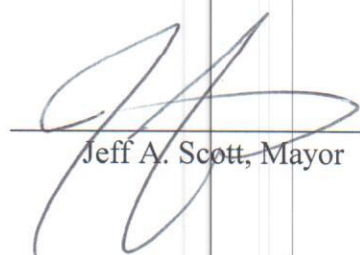
This resolution takes effect upon its passage and supersedes any personnel policy previously adopted.

June 12, 2012

First Reading

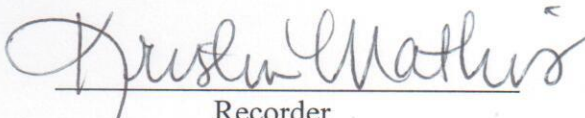
July 10, 2012

Second Reading



Jeff A. Scott, Mayor

ATTEST:



Recorder