

CHAPTER 27

PERSONNEL ORDINANCE

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PERSONNEL ORDINANCE

27.00 PREAMBLE

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

- (1) The provisions of this Chapter shall apply to all City Employees except to the extent that an individual contract or a bargaining agreement applies. If such contract or agreement is silent on a policy contained herein, this Chapter shall apply.
- (2) The provisions of the State Statutes, s. 62.13 and Chapter 43 as they pertain to the Police and Fire Departments and the Public Library respectively, shall take precedence over this Chapter.

27.01 RELATIONSHIP WITH COLLECTIVE BARGAINING AGREEMENTS

If any portion of this Chapter conflicts with a bargaining agreement between the City of Middleton and one of its negotiating units, the provisions of the relevant collective bargaining agreement shall take precedence.

27.02 ROLES, DUTIES, AND RESPONSIBILITIES

(1) The Personnel Committee

The powers, duties and responsibilities of the Personnel Committee shall consist of the following:

- (a) To consider, draft, revise, amend, maintain, and recommend changes to this ordinance to the Common Council.
- (b) To consider, review, revise, maintain, approve, and make recommendations regarding the implementation of all material policy matters relating to personnel, not otherwise explicitly or implicitly delegated to the City Administrator, or the City's Human Resources Manager.
- (c) To review, revise, amend, and recommend for approval or disapproval of the creation or addition of any new Regular Staff position(s) within the City of Middleton organizational structure to the Common Council.
- (d) To stay apprised of important personnel matters, trends, and issues affecting City staff within labor law, policy, or practice which may impact the City staff or the City's ability to serve the community
- (e) To make inquiries and to provide general guidance, input, and observations on personnel matters or concerns as they may arise to the City Administrator and the Human Resource Manager
- (f) To provide assistance and guidance to the contract bargaining team designated by the City during collective bargaining negotiations with employee units and groups of employees, and, with the approval of the Common Council, authorize the employment a professional, qualified labor negotiator to assist the bargaining team in carrying out their duties, as authorized by Wis. Stat. s. 111.70(5).

(2) The Personnel and Finance Committees Meeting Jointly

The powers, duties, and responsibilities of the Personnel and Finance Committees Meeting Jointly shall consist of the following:

- (a) To consider, revise, amend, and make recommendations to the Common Council regarding the recruitment and filling of any staff positions proposed and recommended by the Personnel Committee that are:
 - 1. New, non-seasonal staff positions, which are not part of the current year's approved budget, or
 - 2. Staff positions requiring backfill that are materially changed from the approved current year budget cost or previous position duties

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- (b) To consider, revise, amend, and recommend for approval or disapproval to the Common Council all new or changed ordinances, resolutions or polices with material financial consequence as they related to personnel matters. This may include, but is not limited to, matters such as the annual city salary resolution, and/or any changes to compensation or benefit polices or practices not mandated by statutory or regulatory authority
- (c) Alternately, the above actions may be carried out during independent meetings of the Personnel Committee and Finance Committee where meeting jointly is not possible or preferred

(3) The City Administrator

As they relate to personnel matters, the powers, duties, and responsibilities of the City Administrator shall consist of the following:

- (a) The responsibility to oversee, recommend, develop, and enforce personnel policy, and any other statutory/regulatory requirements pertaining to personnel matters. The City Administrator may do this through either direct action or through the delegation of authority as appropriate to the Assistant City Administrator, City Human Resources Manager, the City Clerk/HR Assistant, and/or the Department Heads/Directors.
- (b) To establish, model, and enforce the City's expectations of personal and professional conduct, performance, and ethical behavior.
- (c) To enable and ensure the professional development of staff and their service to the City by acting as the performance evaluator, mentor, and supervisor of department heads and/or directors, or others designated as direct reports.
- (d) To provide general or detailed guidance, as necessary, to the HR Manager in the execution of personnel activities, actions, and policies.
- (e) To direct the Human Resources Manager in the coordination and provision of human capital services, and in the administration of all ordinances, resolutions, and policies of the City relating to personnel matters.

(4) The City Human Resources Manager

The powers, duties, and responsibilities of the Human Resources Manager shall consist of the following:

- (a) To coordinate and provide all personnel related administrative services, human capital management, employee and organizational development efforts, personnel policy leadership and expertise, and oversight of all human resource activities for the City.
- (b) To ensure and enforce the administration of all ordinances, resolutions, and policies of the City relating to personnel matters.
- (c) To serve as the expert, interpreter, and mentor to the City Administrator and other staff in all areas of personnel management as they affect the City.
- (d) To establish and maintain official employee records (title, pay, vacation, sick leave, evaluations, commendations, health records, compensatory time, and other relevant information).

- (e) To research, design, develop, recommend, and with approval, implement and administer city personnel actions, programs and policies to include, but not limited to the areas of: compensation plan design, employee benefits, recruiting and retention, professional development, statutory and regulatory compliance, succession planning, organizational design and development, staff performance and disciplinary management, and selection/utilization/maintenance of the City's human information system(s).
- (f) To support, advise and coordinate all recruiting and hiring actions, in conjunction with the department heads, for all classified and unclassified regular and non-regular positions within the City.

27.03 DEFINITIONS

(1) Permanent Full-Time Staff

For the purposes of this ordinance, "Permanent Full-time Staff" are defined as those individuals whose regular hours are expected to be no less than 30 hours per week and for an extended indefinite period. Permanent Full-Time Staff are eligible for all benefits provided by the City.

(2) Permanent Part-Time Staff

For the purposes of this ordinance, "Permanent Part-Time Staff" are defined as those individuals whose regular hours are expected to be between 23 and 29 hours per week and for an extended indefinite period. Permanent Part-time Staff are eligible for some benefits provided by the City.

(3) Permanent Part-Time Staff – Non Regular Staff

For the purposes of this ordinance, "Permanent Part-Time Non-Regular Staff" are defined as those individuals whose regular hours are expected to on average less than 23 hours per week and which are not seasonal in nature. Permanent Part-Time Non-Regular Staff are ineligible for benefits provided by the City except as specifically noted.

(4) Classified Staff

Any staff position(s) and employee(s) incumbent in the position(s) that are included in the salary classification table and annual salary resolution.

(5) Non-Union Unclassified Staff

Any non-union staff position(s) and employee(s) incumbent in the position(s) that are not included in the salary classification table and annual salary resolution. Generally limited to seasonal, continuous part-time, other non-regular employees, or collective bargaining unit employees.

(6) Collective Bargaining Unit Employee

Any staff member in a position whose wages and conditions of employment are additionally governed and defined under a collective bargaining agreement between the City and such a unit.

(7) Seasonal Employment

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

(8) Temporary Appointment

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

(9) Emergency Appointment

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

(10) Limited Term Employment

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

(11) Military Leave Replacement Appointment

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

27.04 EQUAL OPPORTUNITY

The City of Middleton is an equal opportunity employer seeking a diverse and talented workforce. All aspects of employment including the decision to hire, promote, discipline, or discharge, will be based on merit, competence, performance, and business needs. We do not discriminate on the basis of race, religion, gender, age, color, physical or mental disability, medical condition, genetic information, ancestry, national origin, marital status, pregnancy, sexual orientation, gender identity or expression, veteran status, or any other status protected under federal, state, or local law. The City will make every reasonable accommodation for individuals with disabilities.

27.05 HARRASSMENT AND SEXUAL HARRASSMENT

- (1) The City of Middleton is committed to maintaining a work environment that is free from discrimination and unlawful harassment. All City employees are required to be familiar with and comply with City policies prohibiting sexual and other unlawful harassment in the workplace:
- (2) Practices, training, reporting, investigations and responses to harassment or sexual harassment allegations, will be conducted in accordance with established policies per the Employee Handbook

27.06 REPORTING REQUIREMENT

The City encourages, but does not require, employees to be residents of the City, however, specific positions may carry a requirement to live within (or relocate to) a reasonable recall to work distance/commute time; generally, 30 minutes. This requirement is clearly articulated in any job description and job advertisements to which it applies. Positions of this nature include, but are not limited to: street maintenance, utility maintenance, and park maintenance worker positions and their field supervisors. Failure to meet this requirement within a reasonable time period after hire may result in termination of employment.

27.07 HIRING PROCEDURES

This section contains general guidance on hiring, staffing and selection of employees within the City of Middleton. For positions where the process is under the purview of, and participated in by, the Mayor and /or Common Council the intention of this section is to provide more detailed guidance on their roles. Staffing, selection and hiring details and processes not otherwise contained in this ordinance are documented in the City of Middleton Staffing and Selection Policy.

(1) Hiring Procedures for City Administrator and Department Heads (with the exception of the Police Chief and the Library Director)

- (a) If the City Administrator or a Department Head retires, resigns, or is dismissed, the City Administrator and the HR Manager will draft and recommend a recruitment and fill process to the Personnel Committee for approval.
- (b) Personnel Committee shall, with the aid of Human Resources Manager complete recruitment, screening, and selections of candidates. The screening committee for department heads shall also include one member from the appropriate supervising committee or commission.

- (c) All final recommendations to the Common Council will be made exclusively by the Personnel Committee
- (d) A two thirds (2/3) vote of the Common Council is required to confirm the appointee.

(2) Hiring Procedure for the Library Director and Police Chief

- (a) The hiring procedures for the Library Director and the Police Chief are conducted per policies and/or State Statutes, with guidance to be provided by the Library Board and the Police Commission, respectively.
- (b) The City HR Department/Manager shall assist the Police Commission and the Library Board in the creation of advertisements, posting to employment sites, collections of applications, evaluation schemes and tools, and candidate coordination.

(3) Hiring Procedure for all other Staff

- (a) Classified Staff positions are hired in collaboration between the department head/hiring manager and the Human Resources Manager per the Staffing and Selection Policy.
- (b) Non-Classified Staff and all seasonal staff are hired by the department heads/hiring manager per the Staffing and Selection Policy.

(4) Appointment to “Acting Positions”

- (a) In the event a position is vacated or expected to be vacated for a period of 30 days or greater, and its duties are such that they must be assigned and carried out prior to the permanent filling of the position, a current staff member may be designated as “Acting” in that position. The appointing authority, in conjunction with the Human Resources Manager shall recommend an appropriate level of compensation for the employee during the term of appointment.
- (b) The acting appointment is provisional and shall only be effective until the conclusion of the usual selection process or the incumbent returns. When that is accomplished, the employee filling the acting position shall be or returned to her or his former position at their former salary.
- (c) Appointment of Acting City Administrator or Acting Department Head.
 - 1. The Mayor, City Administrator or Personnel Committee may each recommend name(s) to serve in the position of Acting City Administrator. The City Administrator will recommend name(s) to serve in the position of an Acting Department Head.
 - 2. The Common Council will then consider and select a candidate to serve in the role by two-thirds vote.
 - 3. The Common Council will set an appropriate compensation level for the Acting employee during their tenure in the position at the time of approval and selection.
- (d) Appointment of Acting employees to positions other than City Administrator or Department Heads.
 - 1. The City Administrator may recommend name(s) or receive recommendations from the impacted Department Head to serve in the Acting position and will with the impacted Department Head jointly make the selection to the Acting position.
 - 2. The City Administrator, after consultation with the Human Resources Manager, will set an appropriate compensation level for the Acting employee during their tenure in the position, subject to available funds.

27.08 HOURS OF WORK

(1) Work Week/Workday/Schedule

- (a) The standard work week for full-time employees of the City not covered by a collective bargaining agreement is 40 hours, though full time benefits begin at 30 or more hours per week. For part-time employees it is commensurate with the number of hours scheduled for each week by the supervisor and generally consistent with the expectations for hours and days of work articulated in the hiring agreement with the employee.
- (b) The City generally observes an 8 hour workday, Monday to Friday work week.
- (c) Operational needs of departments, operations, and collective bargaining agreements all may create the need for alternate days/hours of work.
- (d) Creation of new permanent department-wide scheduling schemes or permanent changes to individual employee schedules shall be determined as follows:
 - 1. Changes to Full-time and part-time regular permanent employees working schedules varying from the basic City schedule, may be proposed by the department concerned.
 - 2. The City Administrator will review and approve/disapprove/modify the recommendation.
 - 3. If changes are approved, the City Administrator will provide notice of the changes to the Mayor and Common Council.
- (e) Permanent Part-Time Non-Regular Staff work schedules may be permanently changed by the department head with a minimum of thirty days' notice to the employee.
- (f) Specific, approved and authorized alternate schedule programs are listed and administered per policy in the Employee Handbook.

(2) Temporary Changes in Standard Work Week

- (a) Emergency or operationally required changes may be made at the discretion of the department head and department managers. This includes the scheduling and execution of overtime or the recall of employees to work.
- (b) Non-emergent changes to standard workdays and work weeks may be implemented temporarily by the department heads, subject to the approval of the City Administrator.
- (c) Temporary changes must be communicated no less than two weeks in advance, unless required by emergency.
- (d) Temporary changes are limited to a maximum of 60 days unless an extension is approved by the City Administrator. Such an extension shall be communicated to the affected employees as soon as possible.

27.09 ATTENDANCE

All employees must report for their assigned and scheduled work/duty in a timely and prompt manner. When not able to report:

- (1) If unable to report, employees must notify their supervisor at least thirty (30) minutes prior to their scheduled start-time. Failure to do so may subject the employee to discipline for absenteeism/tardiness per policy in the Employee Handbook.
- (2) Employees who have accrued Paid Time Off of any type must use such time to substitute for all hours missed. If an employee does not have any accrued time available, they must request and

be approved for an unpaid leave status or be subject to discipline for absenteeism/tardiness per policy in the Employee Handbook.

- (3) Employees not earning accrued Paid Time Off must be approved for an unpaid leave status, or they may be subject to discipline for absenteeism/tardiness per policy in the Employee Handbook.
- (4) Employees shall adhere to their scheduled hours, scheduled meal or other breaks, and shall not leave the work site/duty in a paid status unless approved by a supervisor.
- (5) Acceptable absences from work may include, as appropriate and approved.
 - (a) Sick Leave
 - (b) Vacation
 - (c) Personal Holiday
 - (d) Discretionary Unpaid Personal Leave
 - (e) Bereavement, Jury or other special leave as authorized by this ordinance
 - (f) Supervisor approved unpaid time off for part-time employees not accruing any type of paid time off.
- (6) The specific request process, approval, applicability, use, and accounting of leave during an employee absence from duty is per policy in the Employee Handbook.

27.10 CITY FAIR LABOR STANDARDS ACT (FLSA) CLASSIFICATION

- (1) The City will review each Classified Staff position FLSA status upon creation and annually thereafter during the development of the Annual Classified Compensation and Salary plan, to ensure they are correctly categorized as a FLSA Exempt or Non-Exempt position.
- (2) The HR Manager will provide recommendations for categorization or change to categorization to the City Administrator for approval and implementation. This analysis shall be based on salary and the threshold and duties tests as defined at the time by the U.S. Department of Labor and/or the Wisconsin Department of Workforce Development.
- (3) A summary of any changes made during the annual review shall be provided to the Personnel Committee, and the Personnel and Finance Committees meeting jointly in conjunction with the Classified Salary/Compensation approval process.

27.11 OVERTIME, COMPENSATORY TIME, AND RECALL PAY

(1) FLSA Non-Exempt Employees

(a) Overtime

Overtime premium pay is paid to eligible Classified Staff and Non-Union Unclassified Staff for hours worked in excess of the amounts noted below. This premium pay is paid at one-and one-half times (1.5x) the employee's base hourly rate of pay. Overtime is only payable during a period where the actual hours physically worked exceed the thresholds below. Vacation, Sick Leave, Personal Holidays, Comp Time taken, and all other types of leave are not considered as hours worked. Total hours in any period with these types of time shall be reduced by a like amount to determine the hours worked for purposes of overtime

(b) Overtime Eligibility

1. General Classified Staff and Non-Union Unclassified Staff

FLSA non-exempt personnel who work in excess of 40 hours per week shall be compensated for such work at the rate of time and one-half time (1.5x) their regular hourly rate for those hours worked. Such work must be approved in

advance, in writing, by the department head or an individual designated to make such an approval. Failure to obtain prior approval may result in discipline, up to and including termination.

2. Police Department Dispatch Employees

In addition to the overtime provided in paragraph (1)(b)(1) of this section, the listed non-exempt employees of the Police Department earn overtime at the rate of time and one-half time (1.5x) their regular hourly rate for any hours worked in excess of eight and one quarter hours (8.25 hours) worked in a day.

3. Police Sergeants, Lieutenants

In addition to the overtime provided in paragraph (1)(b) (1) of this section, police sergeants and lieutenants earn overtime at the rate of time and one-half time (1.5x) their regular hourly rate for any hours worked in excess of eight and one quarter hours (8.25 hours) in a day

4. Pleasant View Golf Course and Aquatic Center Employees

All non-minor employees of the Pleasant View Golf Course and the City of Middleton Aquatic Center are exempt from FLSA overtime pay and compensatory time requirements. Both establishments are recognized as "Seasonal Recreation and Amusement Establishments" per that specific exemption in the FLSA. Employees working in excess of 40 hours per week are paid their normal straight time hourly rate for those hours. Employees who are minors will be paid overtime as required by law

(c) Compensatory Time

1. When requested by the employee and approved by their supervisor in advance, FLSA non-exempt employees may elect to accrue compensatory time in lieu of overtime
2. Compensatory time is accrued at 1.5 hours per hour of overtime worked.
3. Law enforcement, fire protection, and emergency response personnel and employees engaged in seasonal activities may accrue up to 480 hours of comp time; all other employees may accrue up to 240 hours.
4. Compensatory time must be used in the same calendar year that it is accrued, except that 24 hours may be carried forward to the next calendar year
5. Accrued, unused compensatory time is paid out on the employee's first paycheck in the month of December each year

(d) Recall Pay

1. Applicability

Any overtime eligible FLSA non-exempt classified or unclassified employee recalled to work by a supervisor outside of normally scheduled hours due to an unplanned, unanticipated emergency or event is entitled to recall pay. Routine changes to working hours or anticipated and planned alterations to schedules are not considered recall events

2. Recall Pay Eligibility

Recall pay shall be paid only if the recall occurs after the completion and clocking out of a scheduled shift and before the beginning of the next scheduled shift, recall on days off, recall from vacation/compensatory time off/personal holiday time, or recall on an unscheduled Holiday

3. Minimum Compensation

Recalled employees will be paid for a minimum of two hours, or the actual hours worked, whichever is greater. Employees called in to work immediately before

or after the employees regularly scheduled hours, will not be eligible for the two-hour minimum call-in pay

4. Recall Pay Rate

Employees recalled are paid at a premium rate of one- and one-half times (1.5x) their normal hourly rate of pay

5. Employees recalled on a Holiday will receive Recall Pay and Holiday Pay concurrently.

6. No employee will receive Holiday Premium Pay, Vacation Pay, Sick Pay, or any other paid benefit time concurrent with recall hours worked. If an employee is recalled during such leave, they shall be credited back an equal number of benefit hours in their bank

(2) FLSA Exempt Employees

(a) Overtime and Compensatory Time

FLSA Exempt Employees are exempt from overtime regulations. As such, these employees do not receive overtime compensation or accrue compensatory time for work performed beyond 40 hours in a week.

(b) When Exempt Employees work more than 40 hours in a week, they may observe flexible working hours with the approval of their department head, or the City Administrator for his/her direct reports. No hour for hour accounting is kept or accrued, and such hours are not entitled to payout.

27.12 OUTSIDE EMPLOYMENT

(1) Outside employment by any City employee is managed in accordance with policy per the Employee Handbook.

(2) Where there may be a question of a conflict of interest, the department head shall bring it to the attention of the Human Resources Manager for a determination of appropriateness

27.13 CORRECTIVE ACTION, DISCIPLINE, AND DISCHARGE

Employees and staff of the City are expected to perform their assigned duties in a diligent and acceptable manner, and whether on or off duty, engage in conduct conducive to effective, efficient, ethical service of the City and in compliance with all rules, norms, and expectations of public service. When expectations are not met, the City Administrator, department head, or other official of the City as charged and vested with such authority, shall deal with this failure through corrective action, and discipline up to and including the termination of employment.

(1) Reasons for Corrective Action, Discipline, and Discharge

(a) A representative, but not exclusive, list of reasons for the initiation, conduct, and documentation of Corrective action, and the process and procedure for such associated actions is contained in the Employee Handbook.

(2) Corrective Action, Discipline, and Discharge Process and Procedure applicable to the City Administrator and Department Heads

(a) Responsibility, process, and procedures for corrective action for this group of employees is found in the Employee Handbook.

(3) Corrective Action, Discipline, and Discharge Process and Procedure applicable to all City Employees, except the City Administrator and Department Heads

- (a) Investigations or the initiation of discipline for poor performance or misconduct involving the City Administrator shall be addressed as follows:
1. Concerns or complaints shall be referred to the Human Resources Manager.
 2. If the Human Resources Manager deems the concerns valid, they shall notify the Mayor, and the City Attorney (if they are not already aware of the referral).
 3. The HR Manager, in conjunction with the previously named officials shall investigate, document, and present findings and recommendations to the Personnel Committee.
 4. The Personnel Committee shall consider the findings and the recommendations make a recommendation of action to the Common Council.
 5. The Common Council may accept, reject, modify such recommendations or it may request additional investigation. Any determinations shall be by a two-thirds vote.
- (b) Investigations or initiation of discipline for poor performance or misconduct involving a Department Head shall be addressed as follows:
1. Concerns or complaints shall be referred to the Human Resources Manager.
 2. If the Human Resources Manager deems the concerns valid, they shall notify the Mayor, City Administrator, and the City Attorney (if they are not already aware of the referral).
 3. The HR Manager, in conjunction with the Mayor, City Administrator, and the City Attorney will investigate and document their findings and recommendations.
 4. The City Administrator will consider and administer any and all recommended discipline short of unpaid suspensions and dismissal for department heads. The City Administrator shall inform the Personnel Committee of all actions taken.
 5. The Personnel Committee shall consider any discipline involving suspensions or dismissal of department heads, and shall make a recommendation to the Common council.
 6. The Common Council will consider and direct action by a two-thirds vote, up to and including dismissal.

27.14 VACATION

(1) Vacation Usage

Vacation time may be used in no less than one (1) hour increments. Full vacation days are paid based on the number of hours an employee is regularly scheduled to work. Employees will not be paid vacation time on days for which they are not scheduled to work, nor for more hours than they would normally be scheduled to work on a scheduled workday or workweek.

(2) Vacation Accrual

Employees shall earn annual paid vacation as follows:

Years of Continuous Service Completed	Days of Vacation	Hours/ Hours per Pay Period Accrual Rate
Hire through the completing of two (2) years	15 days	120/4.62
Beginning of three (3) through completion of five (5) years	18 days	144/5.54
Beginning of three (6) through completion of five (9) years	22 days	176/6.77
Beginning of three (10) through completion of five (14) years	26 days	208/8.0
Beginning of three (15) and more years	30 days	240/9.23
• Notes of Exception		
* Vacation accrual as reflected above may be subject to alteration as a part of a new employee hire agreement or offer letter but is limited to the schedules listed above effective with the approval of this ordinance. Any employee grandfathered to another plan will continue with that exception until the stated exception ends, is modified, or the employee separates employment		
* For police officers who are removed from the collective bargaining unit upon attaining the rank of sergeant, if vacation benefits under the collective bargaining agreement are more favorable, at the time of promotion or at any time thereafter while said officer holds a rank of sergeant or higher, not including the Chief of Police, vacation will be determined according to the collective bargaining agreement, otherwise, vacation shall be determined according to the table above.		

(3) Vacation Accrual Periods

- (a) Employees eligible to accrue vacation hours do so in accordance with the table above, beginning on their date of hire. Employees normally scheduled for and working less than 40 hours per week, and at least 23 hours or more per week earn vacation at a rate prorated according to their scheduled and worked hours.
- (b) Accrual amount increases due to years of service become effective on the anniversary of their date of hire.

(4) Carryover of Unused Vacation

- (a) Employees are generally permitted to carry over 240 hours of accrued vacation into the following year. Vacation balances in excess of 240 hours as of December 31 are forfeited
- (b) Regular permanent employee normally scheduled for and working less than 40 hours per week will have their maximum carryover of vacation prorated according to their scheduled and worked hours.
- (c) Under exceptional circumstances, employees may be granted an exception to carry over accrued vacation beyond 240 hours. A written request detailing the exception request must be submitted per policy in the Employee Handbook.

(5) Basis for Vacation Pay

The rate of pay for Vacation Time/Days is based upon the employee's base earning rate at the time the vacation period begins.

(6) Accrued Vacation Payout and/or Utilization

- (a) Upon Retirement: Employees eligible to receive Wisconsin Retirement System (WRS) annuity payment upon termination of employment may choose to schedule and use vacation between their last active working day and the date of their actual retirement from service, receive a payout of any accrued vacation up to the limit of 240 hours, or any combination thereof in whole day (8 hour) increments.
- (b) Upon voluntary resignation, other than normal retirement, death, or termination not due to employee misconduct:
 1. Employees who have completed six months of service that voluntarily resign, pass away while in active service, or are terminated for reasons other than misconduct shall receive pay for all accumulated unused vacation.
 2. Upon the death of an employee, the above benefit shall be paid to the estate or the surviving insured dependents.
 3. Employees in any of these circumstances may not schedule and use vacation between their last working day and termination date.
- (c) Upon a termination for cause due to employee misconduct, employees forfeit use or payment of any and all unused accrued vacation.

O1593, 11/15/2022

27.15 HOLIDAYS

(1) List of Holidays

The following are recognized as paid holidays for city employees:

- New Year's Day
- Martin Luther King Jr. Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Friday after Thanksgiving Day
- December 24
- December 25
- December 31
- *Four (4) days for Personal Days to be taken on days selected by the employee and subject to approval of the department head. Employees are encouraged to use one of the granted Personal Days to volunteer with local or national non-profit organizations.*

O1592 11/15/2022

(2) Holiday Pay

- (a) Non-exempt Permanent Full-Time and Part-Time Staff
Non-exempt Permanent Full-Time and Part-Time Staff employees will receive holiday pay consistent with the number of hours the employee would normally be scheduled to work on that day, if their department or the City is closed.
- (b) Permanent hourly regular non-exempt employees

Permanent hourly regular non-exempt employees not scheduled to work on a recognized holiday will receive a prorated amount of holiday pay for that day based on their average hours worked during the week.

(c) Police Dispatch, Sergeants and Lieutenants

Police Dispatch, Sergeants and Lieutenants on rotating schedules will receive Holiday Pay in the amount equal to their basic scheduled hours.

(d) Exempt Employees

Exempt employees are not eligible for holiday pay. Supervisors may, but are not required to, grant flexible time off to these employees

(e) Employees recalled to work on a holiday for which they were not scheduled, will receive recall premium pay and holiday pay concurrently

(f) To be eligible for holiday pay employees must be actively employed with the City on the calendar days immediately preceding and following the holiday. Employees on an unpaid leave of absence will not be eligible for holiday pay

(3) Holiday Premium for Required Holiday Work – FLSA Non-Exempt Employees

(a) In those cases where employees are scheduled for work on the holidays listed above, employees are paid at a holiday premium rate of one- and one-half times (1.5x) their normal hourly rate for those hours worked.

(b) Employees receiving holiday premium pay do not receive holiday pay, with the exception of Police Sergeant/Lieutenants, and Dispatch employees.

(4) Use of Holidays

(a) Employees must use all Holidays, Personal Days, or compensatory time granted for worked Holidays within the calendar year in which it is earned/granted.

(b) Personal Days are accrued at the rate of 32 hours per year and available on the January 1st of each year. Personal Days may be used in increments of not less than one (1) hour and are accounted for during usage in the same manner as vacation hours. Unused Personal Days are not paid out upon termination or separation for any reason.

O1592 11/15/2022

27.16 LEAVES OF ABSENCE

(1) Sick Leave

(a) All Permanent Full-Time Staff, working a 40-hour week earn sick leave at the rate of one day per month.

(b) Permanent Part-Time Staff earn sick leave on a pro rata basis consistent with their regularly scheduled hours.

(c) Sick leave must be earned prior to use and may not be anticipated.

(d) Submission of requests, approval, verification of illness if appropriate, and questions and suspicions of sick leave abuse are handled per policy in the Employee Handbook.

(e) Payout of unused sick leave accumulation upon employment separation:

Employees Hired prior to July 12, 2013

(1) Employees hired prior to July 12, 2013, who retire or who are disabled and eligible to receive Social Security benefits or Wisconsin Retirement benefits, shall receive the equivalent value of their accumulated sick leave credits. These funds, which are equal to the unused hours of sick leave multiplied by the employee's hourly salary at the time of retirement or disability will be placed in a Post-Employment Health Reimbursement Account (held by a third-party

administrator) and will be utilized to pay eligible medical expenses and insurance premiums as defined by the IRS. Upon a current or former employee's death, a spouse and/or dependent may continue to use the account to pay any eligible health care expenses they incur until the account is exhausted. *O1498, 09/17/2019*

- (2) Any employee with at least 10 years of service with the City of Middleton and a minimum unused sick leave balance of at least 480 hours who leaves employment voluntarily but who does not meet the criteria described in paragraph 1 above, shall be entitled to receive fifty percent (50%) of his or her accumulated unused sick leave hours. These hours shall be converted to funds in an amount equal to the number of such hours multiplied by the employee's hourly wage rate in effect at the time of departure. These funds will be placed in a Post-Employment Health Reimbursement Account (held by a third-party administrator) as described in section (1) above.

O1498, 09/17/2019

Employees Hired on or after to July 12, 2013

- (3) Employees hired on or after July 12, 2013, who retire or who are disabled and eligible to receive Social Security benefits or Wisconsin Retirement benefits shall be entitled to receive up to a maximum of 1,040 hours in accumulated sick leave credits. These credits, which are equal to the unused hours, up to a maximum of 1,040 of sick leave multiplied by the average employee's hourly wage throughout the employee's City employment until retirement or disability and will be placed in a Post-Employment Health Reimbursement Account (held by a third-party administrator) as described in section (1) above. *O1498, 09/17/2019*

Employees Hired after July 12th, 2013, Not Receiving WRS Retirement

- (4) Employees hired after July 12, 2013, and who separate voluntarily, with at least 10 years of service and a minimum unused sick leave balance of at least 480 hours, but who do not meet the criteria described in paragraph 3 above, are eligible for 50% of their accumulated but unused sick leave to be paid to an HRA in the manner described in section (3) above.

O1566, 11/16/2021

(2) Family and Medical Leave of Absence – Federal and State

- (a) The City complies with all requirements of the State and Federal Family and Medical Leave Act requirements and conditions that apply to municipalities.
- (b) Eligibility, request, approval processes for leave under each the Federal and State of Wisconsin Family and Medical Leave Acts are found in the Employee Handbook.

(3) Discretionary Personal Leave of Absence

- (a) All employees may request a discretionary personal leave(s) of absence. Such leaves, if approved, are unpaid, and other accrued Paid Time Off is not charged against the employee for any time missed pursuant to an approved Discretionary Personal Leave. Submission and approval are per policy in the Employee Handbook.
- (b) Such leaves of absence are limited to three (3) calendar days per year. The days may be continuous or non-continuous. Requests for a longer leave of absence without pay, may be submitted for consideration in accordance with the Employee Handbook and may be approved in exceptional circumstances in the sole discretion of the City.

(4) Continuation of Health Insurance During Certain Unpaid Leave(s) of Absence

- (a) Unpaid Leave upon FMLA Entitlement Exhaustion
1. When an FMLA eligible employee enrolled in the City Health Insurance plan takes an approved, unpaid medical leave of absence extending beyond exhaustion of their FMLA entitlement, the City will continue to provide, and pay the City portion of the employee's health insurance for up to ninety (90) days.

2. The City may request the employee to have a medical evaluation performed by a doctor chosen by the City.
 3. If the approved unpaid medical leave continues beyond three (3) months, health insurance will be offered as required in under COBRA and the Health Care Reform Act.
- (b) Leave as an Accommodation under the ADA
1. When an employee enrolled in the City Health Insurance plan has a leave of absence recommended and agreed upon as a reasonable accommodation under the ADA interactive process, the City will continue to provide, and pay the City portion of the employee's health insurance for generally up to ninety (90) days.
 2. This leave status is only provided where an employee is determined to have a qualifying disability per the ADA/ADAA and:
 - i. is not eligible for FMLA leave.
 - ii. has exhausted their FMLA entitlement.
 3. If the approved unpaid ADA related leave goes beyond ninety (90) days, health insurance will be offered as required in under COBRA and the Health Care Reform Act

(5) Maternity Leave – Non Family and Medical Leave Act

- (a) City employees eligible for Federal and/or State of Wisconsin Family and Medical Leave will be granted maternity leave pursuant to those statutes per policy in the Employee Handbook.
- (b) Permanent Full-Time and Part-Time Staff, including those not yet eligible for leave under Federal or State FMLA, may be granted maternity leaves up to ninety (90) days.
- (c) Employees must substitute and use any earned sick leave, compensatory time, and/or vacation paid time during the period of maternity leave. Any remaining maternity leave taken after exhaustion of accrued any paid time off shall be unpaid.
- (d) Employees on maternity leave without pay may continue to participate in the group insurance programs by paying the applicable pro rata premiums to the City Treasurer.
- (e) Notification, request, approval, and any payment with regards to maternity leave are handled in accordance with policy per the Employee Handbook.

(6) Jury Service

- (a) Employees who are absent from scheduled work hours due to jury duty shall be reimbursed the difference between the compensation paid for such jury duty and the wages which would have been paid to such employee.
- (b) Employees called to, but not selected for or released from jury duty are required to report to work for any remaining scheduled time in their workday unless excused by their supervisor.
- (c) Notification, request, approval, and any payment with regards to jury duty are handled in accordance with policy per the Employee Handbook.

(7) Subpoenaed Witness

- (a) Any employee missing scheduled work by virtue of a subpoena to testify in a matter directly related to City employment will be paid for those hours missed without the requirement to apply any accrued paid time off.
- (b) Any employee missing scheduled work hours by virtue of a subpoena to testify in a matter not directly related to City employment must use vacation, accumulated compensatory time, holiday time or leave without pay to cover the absence.

- (c) Notification, request, approval, and any payment with regards to subpoenaed witness duty are handled in accordance with policy per the Employee Handbook.

(8) Military Leave

- (a) The City complies with all of the requirements of the Uniformed Services Employment and Reemployment Rights Act (USERRA) with regard to all employees engaged in part-time or mobilized full-time military service.
- (b) The City provides limited differential pay to certain employees ordered to service in the U.S. Armed Forces or National Guard. Individuals employed on a temporary, emergency, and/or limited term basis, are not eligible for differential pay. If the pay received by the eligible employee for the military service is less than the pay the employee would have received from the City during such period, the City shall pay the difference to the employee. Differential pay is paid for no more than two weeks of service time per calendar year.
- (c) Request, approval, certification, and all other details regarding the administration of military leave is per policy in the Employee Handbook.

(9) Bereavement Leave

- (a) Paid Bereavement Leave is granted to all employees upon the death of a family member, as per policy in the Employee Handbook.
- (b) Upon request, and in exceptional circumstances, additional time off may be granted at the discretion of the City Administrator or Human Resources Manager with recommendation by the employee's supervisor and shall be chargeable to the accrued sick leave of the employee.

27.17 EMPLOYEE BENEFITS

(1) General

The City will provide access to various benefits that support and enhance employee recruitment, retention, and morale, as a part of a total compensation plan. The City reserves the right to make changes at any time, with or without notice.

(2) Benefit Plan Design Selection and Review

- (a) The City's Benefit plan is designed to provide comprehensive and flexible options in many areas at reasonable cost to both employees and the City.
- (b) The City Administrator, Finance Director, Human Resources Manager jointly are empowered to solicit, evaluate, select, and commit to continuance of current benefit plans, changes in plan design that do not affect employee cost share, and other plan design and selection and implementation actions.
- (c) Substantive changes to the design of the plan, to include addition of new comprehensive benefit programs, discontinuance of established benefits, changes in City and employee cost share for any program or benefit provided, or other significant changes of similar nature will be presented to the Personnel Committee, and/or Personnel and Finance Committees Meeting Jointly, for recommendations to the Common Council for consideration, review, revision, and approval or disapproval as appropriate.
- (d) Annually, as a part of the Budget approval process the Common Council will recognize the benefits plan through consideration and approval of a Resolution listing the plan elements, and any employee cost shares for the upcoming year.

- (e) Details of each benefit program included or offered as a part of the plan, associated costs, and all other details are detailed in the Employee Handbook, and the Annual Benefits Summary.

(3) Benefit Eligibility

- (a) Employee eligibility for specific benefits is determined by their status as permanent regular staff or not, and the number of hours for which they are scheduled, as listed in the Employee Handbook.
- (b) Any changes to basic eligibility as recommended by staff, the HR Manager, the City Administrator, a committee of the City, or other official body will be presented to the Personnel Committee, Personnel and Finance Committees Meeting Jointly for recommendations to the Common Council for consideration, and approval or disapproval as appropriate.
- (c) Retirees
 1. Employees retiring but not yet eligible for Medicare shall have the opportunity to continue, at the employee's expense and with the assistance of health insurance premium credits, the present health and accident plan at the group rate, if and to the extent the carrier permits.
 2. All retirees must transition to Medicare and discontinue the City plan upon eligibility for Medicare.
 3. In addition, the eligible employee's surviving insured dependents shall have the opportunity to use the health insurance premium credits for the purchase of health insurance benefits.

27.18 MILEAGE REIMBURSEMENT RATE

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

27.19 LAYOFF, FURLOUGH, AND INVOLUNTARY REDUCTION OF HOURS

(1) Definition

Layoff, Furlough, and Involuntary Reduction of Hours - The unplanned or planned discontinuance or reduction of work for one or more employees, for an extended period of time (greater than one week). This action may be driven by any number of factors.

(2) Determination and Preparation

- (a) In the event a department determines they may need to layoff, furlough, or reduce the hours employees, the Department Head will consult with the City Administrator, Finance Director and Human Resources Manager to present the concern and recommendation. Staff will then provide a recommendation to the Common Council.
- (b) The prior to presenting a recommendation to the Common Council, staff will evaluate the situation, research alternate courses of action, and if staff determines that a layoff, furlough or involuntary reduction in hours is required, staff shall determine the timing, and number of hours/employees that to be laid off as part of its recommendation to the Common Council.
- (c) Evaluation and determination as to the specific staff impact by function, department, and position will be made and applied using the process below.

(3) Communication

- (a) To the greatest extent possible, any employee affected by such layoff shall be given notice not less than fifteen (15) calendar days prior to the effective date of the change. In cases of acts of nature, facility shutdown, or other uncontrollable circumstances the notification period is waived

(4) Implementation of Layoffs and Furloughs

The following process is taken at the job classification/position level until the reduction required is reached:

- (a) Part-time employees volunteering to accept layoff are released in order of seniority.
- (b) Full-time employees volunteering to accept layoff are released in order of seniority.
- (c) Part-time employees not volunteering to accept layoff are released in reverse seniority order.
- (d) Full-time employees not volunteering to accept layoff are released in reverse seniority order.

(5) Recall

- (a) Recall rights shall extend for a period of eighteen (18) months. At the end of that period an employee forfeits all rights to recall.
- (b) Full-time employees are recalled in order of seniority.
- (c) Part-time employees are recalled in order of seniority.
- (d) Recall rights may be exercised by the City for the same classification or a lower classification for which an employee is qualified.
- (e) Refusal or acceptance of a lower classification does not void recall rights to the original classification; however, refusal to accept recall to their last classification precludes any further recall.

27.20 Longevity Pay

(1) Longevity Pay Discontinuance

- (a) Effective December 31st, 2021, the City of Middleton will discontinue its longevity pay plan. After this point employees having not yet received at least one payment under the longevity plan will not enter the plan.
- (b) Employees eligible for and currently receiving longevity pay as of the final longevity pay disbursement date in December 2021 will receive that payment.
- (c) Employees currently receiving Longevity pay may:
 - 1. Opt to continue with that plan and continue to receive payments and increases per the legacy plan until their separation or retirement from the City of Middleton.
 - 2. Will not be eligible for compensation increases other than COLA, Longevity Pay and increases associated with promotion or reclassification if they remain "grandfathered" with the Longevity Pay program.

(2) Opt-Out

- (a) Prior to discontinuance of the Longevity Pay Plan on 12/31/2021, each employee eligible for that plan will be provided the option to discontinue their participation in the Longevity Pay Plan and transition to the new Market-Merit Plan.

- (b) This Opt-Out action is an irrevocable choice and will only be offered via submission of a signed election from 10/15/2021 thru 11/15/2021.
- (c) Employees who chose not to opt-out of Longevity or failing to submit an election form by 11/15/2021 will continue “grandfathered” in the Longevity Pay Plan. No future reconsideration or election to opt-out will be offered. They:
 - 1. Will receive any 2022 COLA increase provided to all Classified employees.
 - 2. Are excluded from any Market-Merit compensation consideration or increases beginning 12/31/2021.
- (d) Employees who choose to Opt-Out of the Longevity Pay Plan grandfathering will:
 - 1. Have frozen the December 31st, 2021, current value of longevity pay earned by employees in the plan. This amount will be integrated into their 2022 base compensation rate and split out across the 26 pay periods in the year.
 - 2. Receive any COLA increase and are eligible for Market-Merit compensation consideration and increases beginning 12/31/2021.
- (e) Opt-Out does not constitute discontinuance of the plan per retirement and no partial year catch-up payment will be made.

(3) Transition Plan

- (a) In the 2022 -2025 budget years, the expected increase in the value of any longevity pay released by employees who Opt-Out of the Longevity Pay Plan will be redirected to fund market rate adjustments to improve internal and external equity in the pay plan.
- (b) Beginning 2022, longevity pay for any employee who retires or separates in the previous year (2021 for 2022) will be recovered and redirected to fund market rate adjustments to improve internal and external equity in the pay plan.
- (c) Beginning 2022 compensation increases for employees will be calculated, within available funds by the application of one of the two systems below:
 - 1. Grandfathered Longevity Pay Plan: Any increase approved by the Common Council for COLA + any Increase in Longevity Pay earned.
 - 2. Market-Based Pay Plan: Any increase approved by the Common Council for COLA + any Increase indicated by evaluation of salary range position, or salary range position combined with merit as indicated in their annual performance evaluation.
- (d) Upon promotion to Sergeant of a Police Department Officer hired before 12/31/2021, that officer will be allowed a one-time Opt-Out of the Longevity Pay Plan. Those who chose not to Opt-Out will continue “grandfathered” in the Longevity Pay Plan. Those who Opt-Out will enter the Market-Based Plan.
- (e) Upon promotion to Sergeant of a Police Department Officer hired after 12/31/2021, that officer will be entered into the Market-Merit Plan

O1561, 10/5/2021 Ordinance to Repeal and Recreate Chapter 27, Effective 12/1/2021