



Personnel System Policy (PSP)

September 18, 2017

CITY OF FOLEY, ALABAMA PERSONNEL SYSTEM POLICY

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CHAPTER I

ESTABLISHMENT AND COVERAGE OF THE PERSONNEL SYSTEM POLICY.

Section 1.1: Introduction.

The City of Foley's Personnel System Policy is established under the principal of public accountability, which dictates that the City must be accountable to its taxpayers and residents for the expenditure of public funds. This Personnel System Policy ("**PSP**") establishes the personnel rules, policies, procedures, benefits and pay plan for *covered* employees.

As the Chief Executive Officer of the City, the Mayor generally is the appointing or hiring authority for all City *employees*. The City Council is the appointing authority for a number of City *officials*, as expressly provided under Alabama statutes. The Mayor generally has the authority to manage, discipline and dismiss or terminate municipal employees. In the Mayor's discretion, the Mayor may delegate specific authority related to the management, discipline or dismissal of municipal employees to other municipal administrators and managers.

The interpretation of this **PSP** and employment decisions not specifically covered in the **PSP** are within the reasonable discretion of the Mayor and/or the City Council. The **PSP** is established by ordinance of the City Council and may be amended, including additions, deletions or changes, only by resolution of the City Council. Any deviation from or failure to follow this **PSP** that does not *materially* affect the rights of a covered employee shall not be a basis for invalidating or modifying any employment decision.

Section 1.2: Coverage of the PSP.

(1). Regular Full-Time and Regular Part-Time Positions. Employees in **Regular Full-Time** and **Regular Part-Time** positions established by the City Council are covered under the **PSP** and are eligible for benefits as described in the **PSP**. Regular Full-Time and Regular Part-Time positions are those established on a long-term basis to meet the City's needs to provide public services and to administer and manage City operations, including but not limited to the Department Head and/or Director positions of **Parks Superintendent, Public Works Superintendent, Recreation Director, Municipal Court Clerk/Administrator, Library Director, Director of Senior Services and Municipal Complex, Economic Development Director, Marketing Director, Executive Director of Sports Tourism, Information Systems Manager, Environmental Manager, and the Horticulturist**. The City Council may establish new "regular" positions and may eliminate or modify existing "regular" positions to fulfill these needs.

- (a). Regular Full-Time Employees** generally are scheduled to work 40 hours each workweek depending on work requirements.
- (b). Regular Part-Time Employees** generally are scheduled to work 29 hours or less each workweek depending on work requirements.

The City Council may designate one or more Regular Full-Time or Regular Part-Time employees as municipal **Magistrates** with the authority (among other duties) to administer oaths, to issue arrest warrants for violations of Alabama statutes and City ordinances and to approve appearance bonds of persons arrested. *See* Alabama Code § 11-43-5.

The City Council may designate the **Municipal Court Clerk/Administrator** as an employee with the authority to administer oaths, to issue arrest warrants for violations of Alabama statutes and City ordinances, and to approve appearance bonds of persons arrested. *See* Alabama Code § 11-43-5.

Regular Full-Time and Regular Part-Time Employees have access to the **Pre-Determination Hearing** under *PSP* § 5.10 and the Post-Disciplinary Hearing Procedure under *PSP* § 5.11.

Regular Full-Time and Regular Part-Time “**Law Enforcement Officers**” are covered under separate Police Department pre-disciplinary hearing procedures and do not have access to a **Pre-Determination Hearing** under *PSP* § 5.10 or the **Post-Disciplinary Procedure** in *PSP* § 5.11.

(2). Temporary and Intern Positions. Employees occupying Temporary and Intern positions are covered under the personnel rules, policies and procedures in the *PSP*. Unless otherwise specifically stated in this *PSP* or authorized by resolution of the City Council: (i) employees in these positions are *not* eligible for benefits described in the *PSP*; and (ii) employees in these positions may be *disciplined* or *dismissed* from employment by the City at any time and for any reason the City deems sufficient. The *PSP* does not obligate the City to continue these employees’ employment for any particular length of time, create a contract of employment of any kind between these employees and the City, or create a property right of any kind or any other right to continued employment with the City. These employees do have access to the **Pre-Determination Hearing** under *PSP* § 5.10, but do *not* have access to the **Post-Disciplinary Hearing Procedure** under *PSP* § 5.11.

(a). Temporary Employees. Temporary employees (including “Seasonal Employees”) are hired for positions that are not long-term and ongoing in nature. Temporary positions may be either part-time or full-time. An individual may not hold a temporary position for more than twelve (12) continuous months. After twelve (12) months of continuous employment, a Temporary Employee will be dismissed and may not be re-employed by the City as a temporary employee until at least one-week after the date of dismissal.

(b). Interns. Intern positions may be established by the City for students or other individuals who are performing work as a part of a curriculum of study or training. Intern positions are temporary. Intern positions cannot commence until Application for Internship has been submitted and approved by the Division of Human Resources. City departments should contact the Division of Human Resources for further information.

(3). Special Positions. The Mayor, with the approval of City Council, may establish and fill “Special” positions to perform necessary projects or other work deemed necessary for the City to provide public services or to manage and administer City operations. The Mayor, with the approval of the City Council, shall determine whether a Special position will be covered under the *PSP*, in whole or in part, and shall establish the duration, qualifications and job duties for the Special position.

(4). Appointed City Officials. The following City officials shall be appointed by the City Council: **City Clerk, Finance Director/City Treasurer, Police Chief, Fire Chief, City Administrator, Assistant City Administrator/HR Director, City Engineer, and City Planner.** Unless designated otherwise by the City Council, these appointed official positions are full-time positions. These officials are covered under the *PSP* and are eligible for benefits as described in the *PSP*. These appointed officials shall, after appointment, have a term of office that shall continue until the next general election and thereafter until a successor is elected by the City Council and qualified.

If the positions are established by the City Council, the City Council shall appoint the **Municipal Judge, Assistant Municipal Judge, and Alternate Municipal Judge** (*for convenience*, referred to *collectively* as Municipal Judge.). A *full-time* Municipal Judge shall have a four year term of office that coincides with that of the City Council. After appointment, the term shall continue until the next general election and thereafter until successors are appointed by the City Council and qualified. A *part-time* Municipal Judge shall have a two-year term of office. The City Council shall designate whether a Municipal Judge is a *part-time* or *full-time* position and shall establish the term of office accordingly. A *full-time* **Municipal Judge** shall be covered by the *PSP* and is eligible for benefits as described in the *PSP*. A *part-time* Municipal Judge shall not be covered under the *PSP* and is not eligible for benefits unless otherwise authorized by the City Council.

Appointed City Officials may be issued a verbal or written warning by the Mayor as provided under *PSP* § 5.9. An Appointed City Official may be demoted from his or her official position, suspended without pay or dismissed during his or her term of office “for cause” by a two-thirds (2/3) vote of the elected members of the City Council after a hearing before the City Council. “Cause” includes, but is not limited to, incompetence, malfeasance, misfeasance or non-feasance in office and conduct detrimental to the good order and discipline, including habitual neglect of duty. **Appointed City Officials** do have access to the **Pre-Determination Hearing** under *PSP* § 5.10 but do *not* have access to the **Post-Disciplinary Hearing Procedure** in *PSP* § 5.11.

(5). Probationary Employees. **Regular Full-Time** and **Regular Part-Time Employees** are “Probationary Employees” during the probationary period under Section 3.4(5) of the *PSP*. Probationary Employees are covered under the *PSP* to the extent defined in the *PSP* for these positions. However, during the Probationary Period, Probationary Employees may be dismissed by the Mayor at any time and for any reason the Mayor deems sufficient. The *PSP* does not: (i) obligate the City to continue a Probationary Employee’s employment for any particular length of time; (ii) create a contract of employment between the Probationary

Employee and the City; or (iii) create a property right or any other right to continued employment with the City.

Probationary Employees do have access to the **Pre-Determination Hearing** under *PSP* § 5.10, but do *not* have access to the **Post-Disciplinary Hearing** Procedure under *PSP* § 5.11.

(6). City Attorneys and Prosecutors. City Attorneys and City Prosecutors shall be retained by the Mayor on an as-needed basis unless a regular part-time or full-time position is established by the City Council. City Attorneys and Prosecutors are not covered under the *PSP* and are not eligible for benefits described in the *PSP* unless otherwise specifically stated in the *PSP* or authorized by resolution of the City Council. This *PSP* does not: (i) obligate the City to continue retaining a City Attorney or a City Prosecutor for any particular length of time; (ii) create a contract of employment of any kind between a City Attorney or Prosecutor and the City; or (iii) create a property right of any kind or any other right to employment for the City Attorney or Prosecutor.

City Attorneys and Prosecutors do not have access to the **Pre-Determination Hearing** under *PSP* § 5.10 or the **Post-Disciplinary Hearing Procedure** under *PSP* § 5.11.

City Attorneys and City Prosecutors shall comply with the *Equal Employment Opportunity/Harassment Policy* in *PSP* § 2.3. A City employee must use the “Complaint Procedure” in the *EEO/Harassment Policy* if the employee believes a Municipal Judge or a City Attorney or Prosecutor has violated the *EEO/Harassment Policy*.

(7). Elected Officials. Elected Officials include the **Mayor** and members of the **City Council**. Elected Officials are *not* covered under the *PSP*. Unless otherwise specifically stated in this *PSP* or authorized by resolution of the City Council, Elected Officials are not eligible for the benefits described in the *PSP*. Elected Officials shall comply with the Equal Employment Opportunity/Harassment Policy in Section 2.3 of the *PSP*. A City employee must use the “Complaint Procedure” in the *EEO/Harassment Policy* if the employee believes an Elected Official has violated the *EEO/Harassment Policy*.

(8). Managerial Positions. Delegation of Authority to Appointed Officials, Executives and Department Heads. The Mayor may delegate the authority to make employment decisions affecting City employees, including hiring, job assignments, promotion, demotion, performance evaluation, discipline and dismissal, to the Appointed Officials, Executives and Department Heads with direct management authority over the affected employees. These employment decisions are subject to review and approval by the Mayor and are subject to all *applicable* provisions in the *PSP*.

Section 1.3: Periodic Review.

This *PSP* shall be reviewed periodically to ensure consistency with State and Federal laws and to evaluate the need for changes to meet the City’s needs to provide public services and to administer and manage City operations.

Section 1.4: Departmental Policies and Procedures.

With the approval of the Mayor, Executives (including Appointed City Officials) and Department Heads may issue written departmental policies and procedures applicable to their respective departments. Departmental policies and procedures shall not conflict with or modify the *PSP*. Departmental policies and procedures must be reviewed by the Human Resources Director and approved by the Mayor before such policies and procedures may be implemented. Once approved, the departmental policies and procedures shall be disseminated promptly to all department employees covered by such policies and procedures.

Section 1.5: Dissemination of the PSP.

Each City employee covered under this *PSP* (regardless whether the employee is covered in whole or in part) shall receive a copy of this *PSP* and shall be required to read and comply with the *PSP*. Each employee shall be required to sign an acknowledgment stating that the employee has received, read, and understands this *PSP*. The receipt shall be maintained in each employee's personnel file. Employee questions about this *PSP* should be directed to the Human Resources Director. No City employee or representative has the authority to modify the *PSP*. The *PSP* can only be modified by resolution of the City Council as previously stated in *PSP* Section 1.1.

CHAPTER II

GENERAL EMPLOYMENT POLICIES.

Section 2.1: Merit Employment.

The City of Foley believes that employment decisions *generally* should be based on merit, including hiring, job assignments, promotions, demotions, performance evaluations, pay within the established pay classification plan, discipline and dismissal. “Merit” may include factors such as education, experience, skills, effort, initiative, conduct, attendance, and other appropriate qualifications or demonstrated job performance. For certain positions, employees may be required to live within a specified distance or commuting time from their place of employment.

However, the general application of merit principals by the City does *not*: (i) obligate the City to discipline or dismiss employees only for “cause” or to continue employees’ employment for any particular length of time; (ii) create a contract of employment of any kind between employees and the City; or (iii) create a property interest of any other right to continued employment with the City.

As stated under **Section 1.2(1), Regular Full-Time and Regular Part-Time Employees** do have access to a **Pre-Determination Hearing** under *PSP § 5.10* and to the **Post-Disciplinary Hearing Procedure** as provided under *PSP § 5.11*, and “**Law Enforcement Officers**” are covered under separate Police Department Pre-Disciplinary Hearing Procedures and a separate merit system that complies with Alabama statutes.

Section 2.2: Non-Discrimination in City Programs.

No person who meets the eligibility requirements for a program, activity or service provided by the City of Foley shall be subjected to discrimination under such program, activity or service because of his or her race, color, religion, sex, national origin, age, genetic information, citizenship, or disability. The City requires its employees to assist in fulfilling this commitment.

Section 2.3: Equal Employment Opportunity/Harassment Policy.

The City of Foley is committed to equal employment opportunity for all qualified persons. We recognize and appreciate each employee’s work and contribution to our success. We believe that our employees are entitled to be treated fairly and with respect. All employees are covered under our *Equal Employment Opportunity/Harassment Policy* and are required to comply fully with the policy.

We provide equal opportunity and equal treatment in all aspects of employment to all employees and to all applicants for employment without regard to their race, color, religion, sex (including pregnancy, childbirth and related medical conditions), national origin, age (40 and over), genetic information, citizenship or military obligations.

We provide equal opportunity and equal treatment for individuals with disabilities who are otherwise qualified for the job. A disabled individual is qualified for a job if he or she meets the qualifications for the job and can perform the essential job duties of the job with or without reasonable accommodation and without posing a direct threat to the health or safety of the individual or to others. We will make reasonable accommodations to ensure equal employment opportunities for disabled individuals.

The City prohibits *discrimination* against any applicant or employee because of race, color, religion, sex (including pregnancy, childbirth and related medical conditions), national origin, age (40 and over), genetic information, citizenship or military obligations. “*Discrimination*” includes recommending, taking or permitting any adverse employment action with regard to any term or condition of employment (*for e.g.*, hiring, promotion, pay or benefits, discipline and termination). The City prohibits *retaliation* against any employee who reasonably and in good faith complains about prohibited discrimination or harassment, including asserting a complaint under the “**Complaint Procedure**” described below. “*Retaliation*” includes threatening, taking or knowingly permitting any kind of materially adverse action against an employee.

We expect all employees, managers and supervisors to respect the professional dignity of fellow employees and to treat fellow employees in a courteous and professional manner. The City will not tolerate any form of *harassment* of our employees, including harassment by appointed or elected officials, department heads and supervisors (for convenience referred to as “supervisory employees”), by employees, customers, vendors, suppliers, or any other person. Prohibited *harassment* includes any hostile, intimidating, threatening, offensive, insulting, demeaning, profane or vulgar words or conduct. Specifically forbidden is harassment because of a person's sex, race, color, national origin, religion, age, genetic information, citizenship or disability. Some *examples* of prohibited harassment include:

- Remarks, gestures, jokes, slurs, pictures, e-mails (sending or forwarding), graffiti and symbols or objects that are offensive, insulting or demeaning because of race, color, sex, national origin, religion, age, genetic information, citizenship or disability. *Examples* of offensive symbols or objects include swastikas, nooses and confederate flags.
- Supervisory employees’ threatening, intimidating or insulting words or actions in dealing with employees under their supervision, particularly any derogatory comments about an individual or about an individual's job performance related to the employee's race, color, sex, national origin, religion, age, genetic information, citizenship or disability.
- Any supervisory employee in any way discouraging an employee from using our “**Complaint Procedure**” (*described below*) to assert a discrimination or harassment complaint under this policy, including stating, implying or threatening that any adverse action of any kind will be taken or allowed against an employee who asserts a complaint under our *EEO/Harassment Policy*.

Discrimination, retaliation and harassment are prohibited and will result in disciplinary action, up to and including dismissal.

We maintain a professional workplace that is free from *sexual harassment*. Supervisory employees shall not threaten or insinuate that an employee's refusal to submit to sexual advances or any other form of sexual harassment will adversely affect the employee's continued employment, pay, benefits, working conditions, job opportunities or any other terms or conditions of employment. Similarly, supervisory employees shall not state or imply that submission to sexual advances or any other form of sexual harassment will in any way enhance an employee's employment opportunities, hours, pay, benefits or any other terms or conditions of employment. ***No manager or supervisor has any authority to take any adverse action against an employee, including but not limited to dismissal, demotion, disciplinary action or reducing the employee's work hours, benefits or pay, because the employee refuses to submit to unwelcome sexual advances or any other form of sexual harassment. Similarly, no supervisory employee has any authority to give an employee preferential treatment because the employee does submit to sexual advances or any other form of sexual harassment.***

Any verbal or physical conduct of a sexual nature that could contribute to a hostile or offensive workplace for any employee, whether committed by a supervisory employee, an employee or any other person (including a customer, vendor, supplier) is prohibited. *Examples of prohibited conduct include:*

- Use of profane or vulgar language;
- Unwelcome sexual flirtations, sexual advances or sexual propositions;
- Sexually-oriented or suggestive jokes or comments;
- Comments about a person's body or sex life;
- Sexually degrading words, including sexual slang, used to describe any person;
- Physical contact of a sexual nature, including unwelcome or inappropriate touching, pinching, patting, grabbing or hugging;
- The display in the work place of sexually oriented or suggestive pictures or objects;
- Sexually suggestive or vulgar graffiti, including words and drawings;
- A supervisor's or manager's comments threatening or in any way suggesting that an employee will suffer any kind of employment consequences, such as demotion, discharge, suspension or denial of any employment benefit, if she/he does not agree to sexual demands or if she/he complains about offensive sexual behavior or any other form of harassment;

- Comments suggesting that an employee will receive favorable employment treatment in exchange for sexual favors.
- Use of e-mail or accessing intranet or internet websites in a manner that would violate this policy.

COMPLAINT PROCEDURE.

You must promptly report any incident of harassment or discrimination, or any other violation of our *EEO/Harassment Policy*, directly to the City’s Equal Employment Opportunity (EEO) Compliance Officer (currently, the City Administrator is the EEO Compliance Officer) or to the City’s Human Resources Director. If the complaint involves an elected or appointed official, the EEO Compliance Officer shall promptly notify the Mayor.

If the complaint involves the EEO Compliance Officer, or an Elected Official or an Appointed Official, or if for any other reason the employee does not believe the EEO Compliance Officer can fairly investigate or address the complaint adequately or appropriately, ***the employee must report the complaint directly to the Mayor.*** **If the complaint involves the Mayor, the employee must report to the EEO Compliance Officer, who shall promptly report the complaint to a member of the City Council.**

All supervisory employees, including Appointed Officials, Department Heads and supervisors, have a responsibility to enforce our *EEO/Harassment Policy*. The supervisory employees’ responsibility includes immediately stopping any harassment that is observed or reported and reporting any violations as stated above. Failure to do so will result in disciplinary action against the supervisory employee, which may include dismissal.

The EEO Compliance Officer or an individual designated by the EEO Officer or by the Mayor (or an individual designated by the City Council if the complaint involves the Mayor) will thoroughly investigate all complaints. The employee will be required to prepare a written complaint detailing the alleged harassment, discrimination, or any other violation of our *EEO/Harassment Policy* and to sign and date the complaint. To the extent practicable, the investigation will be confidential with due regard for the sensitive nature of such complaints. If, after completing our investigation, the City determines that a complaint is valid, the City will take prompt and effective corrective action to stop any harassment/discrimination and to prevent it from occurring in the future. The City also will take appropriate disciplinary action against the person or persons engaging in such conduct. Depending upon the severity of the violation of the policy, appropriate discipline may be dismissal.

We encourage you to come forward if you have a complaint. We assure you that no adverse action of any kind will be taken or allowed against any employee who in good faith reports harassment, discrimination or any other violation of our *EEO/Harassment Policy* under our “Complaint Procedure.”

Section 2.4: Driver's License Requirements.

Prospective and current employees must be in possession of a valid and current driver's license to include the appropriate class of commercial license for the vehicle being operated. Under no circumstance shall a City employee whose license has been cancelled, revoked, suspended, or expired operate a City vehicle. The City of Foley will check the motor vehicle records annually for all current employees with driving responsibilities or those who use rental cars for business travel purposes.

Any employee whose job duties include the operation of a City vehicle, shall, within 24 (twenty-four) hours, notify his/her department head of any change in the status of their driver's license, to include reporting all moving violations involving the use of any vehicle (City of Foley, personal or other) while on City business. Failure to immediately report a change in the status of a license or moving violation shall result in disciplinary action. Additionally, all City of Foley employees must follow all rules and regulations as outlined in the City's Safety Policies and Procedures Manual when operating City vehicles.

Section 2.5: Nepotism.

Generally the City will not hire, assign or promote an individual into a position which would result in an immediate family member having supervisory authority over that employee. "Immediate family members" include the individual's wife or husband, children, grandchildren, parents or grandparents, sister or brother, mother-in-law, father-in-law, grand-parent-in-law, daughter-in-law, son-in-law, brother-in-law, and sister-in-law (and any step relationships within the preceding categories). Any employee employed in such a position before the effective date of this policy is exempt as long as he or she continues to work in the same position. However, future assignments or promotions shall be subject to this policy.

Section 2.6: Gifts and Gratuities.

City employees shall not accept gifts and gratuities from individuals, organizations, or businesses that do business with the City. Extraordinary care should be taken, particularly by City Inspectors, contracting officials and Law Enforcement Officers, to avoid any dealings that may affect the employees' exercise of independent judgment in performing duties for the City or that may give rise to a potential conflict of interest. This policy does not prohibit accepting *occasional* meals (not to exceed \$20) paid for by individuals or businesses doing business with or soliciting business from the City, or the receipt of gifts of minimal value (not to exceed \$35 in any calendar year) such as calendars or date books.

The City recognizes that on occasion an employee will be in a higher cost area which will cause the \$35 limit to be exceeded. This may be due to the geographic location of the site chosen to dine. The employee shall use discretion in these matters. The employee should use such judgment that their actions are supportable.

Section 2.7: Limitations on Political Activities.

During working hours, no employee of the City shall: (i) campaign for any elected office or for appointment to any political office; (ii) engage in any political activity, such as the distribution of badges, pamphlets or handbills favoring or opposing any political candidate or issue; or (iii) solicit or request contributions or donations for any political campaign.

Except for elected City officials, no employee of the City shall: (i) serve as Mayor or as a member of the City Council or be a candidate for elected City office; or (ii) actively engage in any political campaign for any candidate for elective City office or on any issue *during working hours*. An employee who runs for elected office will be placed on administrative leave without pay. If the employee is elected to office, the employee must resign from his or her position with the City.

Uniformed employees of the City may not engage in any of the activities described above *at any time while in uniform*. City employees may not use City resources, funds, equipment, supplies or facilities for political activities.

Section 2.8: Political Affiliations.

The foregoing “Limitations on Political Activities” do not affect an employee’s right to become or to continue to be a member of any political party, to attend political meetings, or participate in political campaigns involving state, county, or national candidates or issues *during non-working hours*, or to vote for the candidate of his or her choice without interference or coercion of any kind.

Except as stated in the “Limitations on Political Activities,” City employees shall not be subjected to any form of discrimination or adverse employment action because of their political activity, beliefs or affiliations. No City employee, Appointed or Elected Official shall coerce, attempt to coerce, or pressure any City employee to: (i) take part in any political campaign; (ii) solicit votes, contributions or support for any candidate or cause; or (iii) refrain from such political activities during non-working hours.

No City employee, Appointed or Elected Official shall state or imply that an employee’s political activity political belief or affiliation will adversely affect any term or condition of the employee’s employment.

Section 2.9: Employment References/Employee Information.

Generally, the City shall not provide any type of employment reference or recommendation for a current or former City employee. All inquiries seeking information about a current or former City employee shall be referred to the Mayor and/or the Human Resources Director. Except as required by law, the only information that may be released without specific authorization from the Mayor and/or the Human Resources Director is the inclusive dates of employment and position held by a current or former employee. No other City employee is authorized to release *any* such information to any person.

Section 2.10: Bulletin Boards.

The City maintains bulletin boards in work areas to communicate information related to City business and employment to City employees. These bulletin boards are for City information and notices only. Employees shall not post personal notices, solicitations or advertisements of any kind on these bulletin boards. Employees are required to check the bulletin boards regularly and to be familiar with all posted information related to their employment.

Section 2.11: Access to City Property/Solicitations/Distributions.

To help maintain a businesslike workplace for our employees and to prevent unnecessary interruptions and inconvenience, the City has a property access, solicitation and distribution policy.

Non-employees are not permitted in City work areas or in City buildings not generally open to the public, *except* for City business or City functions. Non-employees are not permitted to solicit or to distribute literature of any kind to City employees *during employees' working time*.

Employees' working time is for work and should be spent performing work assignments. Employees may not solicit co-employees or distribute non-work related literature of any kind *during working time*. Similarly, City employees may not engage in solicitation or distribute non-work related literature of any kind to another employee who is on his or her working time. For purposes of this policy, working time includes the time an hourly-paid employee is clocked-in, which excludes the meal break. For salaried employees, working time is the regularly-scheduled workday, which excludes the meal break.

To help ensure a clean and safe workplace, City employees may not distribute literature of any kind in any work area (even during non-working time). A work area is one where work is normally performed. Examples of non-work areas include break areas and parking lots or other public areas. Without authorization, City employees are not permitted on City property that is not generally open to the public during non-working hours except for City business or functions.

Section 2.12: Tobacco and Electronic Cigarette Free Workplace.

By City ordinance, the use of tobacco products including electronic cigarettes are prohibited in all City buildings, within a reasonable distance of 15 linear feet outside of all main entrances and exits, and in all City vehicles and equipment.

Section 2.13: Outside Employment.

Full-time employment with the City of Foley is considered to be the employee's primary job unless otherwise stated when the employee is hired or assigned to a specific job. City employees must carefully consider the demands that additional work activity will create before accepting or continuing outside employment. Outside employment will not be considered an

excuse for poor job performance, absenteeism, tardiness, leaving early, refusal to travel, or refusal to work overtime or different hours. If outside work activity causes or contributes to job-related problems at the City, the employee will be asked to discontinue the outside employment, and the employee may be subject to the normal disciplinary procedures for dealing with the resulting job-related problem(s). A Law Enforcement Officer may not accept a second job without the written consent of the Police Chief. While engaged in the off-duty employment assignment, an officer shall be permitted to use the department insignia, equipment or uniform (or otherwise represent himself/herself as a City police officer) only as approved by the Chief of Police or his designee.

Section 2.14: Non-Fraternization.

To ensure that no employee receives preferential treatment, and to avoid even the appearance of favoritism or preferential treatment, the City does not allow a dating or other social (*romantic*) relationship between a supervisor and a non-supervisory employee who is under the direction or supervision of the supervisor. A violation of this policy is grounds for discipline, up to and including dismissal. If a supervisor and a non-supervisory employee begin a social relationship, one of the two employees will be required to resign or be dismissed. The employees involved will be allowed to decide which employee will resign. If neither employee voluntarily resigns, the City will dismiss one of the two employees based on the City's business needs. Factors to be considered include the particular skills and experience of the employees involved, and the comparative difficulty of replacing the employees. If these factors are relatively equal, the least senior employee will be dismissed.

CHAPTER III

HIRING, PAY and LEAVES OF ABSENCE.

Section 3.1: General Statement.

The City of Foley will recruit and employ the most qualified applicants for employment with the City.

Section 3.2: Establishment of New Positions.

New positions, with the exception of temporary positions, may be established only with the approval of the City Council. The Mayor may authorize temporary positions in cases where budgeted funds are available to cover the temporary position. The City Council must authorize all permanent positions, including the position designation (per *PSP* § 1.2), pay grade classification (if applicable), and appropriation of funds for the position.

Section 3.3: Recruitment and Hiring.

The recruitment and employment of applicants for existing vacancies, anticipated vacancies, and/or newly-established positions shall follow these procedures:

(1). Hiring and Promotion (Including Emergency Hiring). The City is committed to Equal Employment Opportunity and to hiring and promoting the most qualified applicants for available positions within the City. Because the City's current employees are familiar with the City's personnel policies and procedures, the operations of the City and the needs of City residents, the City *may* offer current employees the first opportunity to apply for job openings. If a position is to be filled from within, the position will be advertised internally for seven (7) calendar days. The City reserves the right to change or eliminate the 7-day advertising period depending upon the circumstances, including emergencies. If the vacant job is filled by a current employee, the job will not be advertised for outside applicants.

The City reserves the right to fill job openings from applicants who are not current City employees. If so, the City may advertise or solicit applications by various means. If the City initially advertises a job internally and, in the judgment of the City, no current employee who applies is qualified for the position, the City may advertise for outside applicants.

The City reserves the right to advertise for outside applicants for an open position without first providing City employees the opportunity to apply for the job if, in the judgment of the City, the required qualifications or experience or the need to fill a position on an expedited basis justify advertising the position for outside applicants. In such cases, the City may in its discretion simultaneously advertise internally to afford City employees the opportunity to apply. Outside solicitation and advertising generally will continue for fourteen (14) calendar days. The City may advertise for a shorter or longer time, depending upon the circumstances.

(2). **Advertising.** The City may use any means to advertise for applicants for a vacant position deemed necessary to provide public notice of the position vacancies. The advertisement shall identify the “open period” (*that is*, the date through which applications will be accepted). If a position is advertised, the position will not be filled until the “open period” ends. During this “open period,” applications will be accepted and maintained for review and consideration. The City reserves the right to list a position as “open until filled,” which designates that a position will be advertised and applications accepted and reviewed until a qualified applicant is selected.

(3). **Opportunity to Apply.** All applicants for a *vacant* position shall complete an online employment application form which is available via the City’s website. All employment applications submitted online are routed directly to, and maintained by, the Human Resources Division. The Human Resources Division shall qualify all applications based upon the position’s minimum job requirements and qualifications. False, misleading or incomplete information on an application will cause the applicant to be eliminated from consideration for employment and will be cause for immediate dismissal from employment if discovered after an applicant has been hired. All applications accepted by the City shall be maintained as required by law. However, applications for a position will generally be deemed “active” (*that is*, eligible for consideration) only until the existing vacancy is filled or until the City elects not to fill the vacancy.

(4). **Restriction on Accepting Applications.** The City accepts applications only for available positions the City seeks to fill as more fully described in Section 3.3(2).

(5). **Reviewing and Screening.** After the period for internal and/or outside advertising for applicants ends, all applications will be reviewed by the Human Resources Division for minimum qualifications. Any applicant not meeting minimum qualifications for the position will be eliminated from further consideration. All applicants meeting minimum qualifications for the position shall be considered. The employment consideration process may include, but is not limited to, a job-related employment test, background checks, verification of employment information and references, and applicant interviews. The Department Head, City Official, and/or the person designated or responsible for hiring within the Department shall work with the Human Resources Division to select a final candidate for hiring. Human Resources will present the final candidate recommendation to the Mayor who shall then provide final approval for the candidate to be hired.

(6). **Physical Examination.** An offer of employment to an applicant selected for hire is *conditioned* upon completion of a physical examination before the individual begins work for the City. The physical examination is to ensure the individual can perform the essential job duties of the particular position with or without reasonable accommodation and without posing a significant risk of injury or to the health of the individual or to others. The physical examination will be at the City’s expense and shall be conducted by a physician selected by the City. All medical records shall be maintained in a separate confidential medical records file with access to such medical records only as permitted by law.

(7). **Controlled Substance and Alcohol Testing.** Compliance with the City’s policy on drugs and alcohol is a condition of employment for all employees. All employees will receive a copy of the City’s *Substance Abuse Policy and Program* and will be required to sign an

acknowledgment form consenting to full compliance with the City's *Substance Abuse Policy and Program*.

- (a). **Safety-Sensitive Positions.** Any offer of employment to an applicant for a “safety-sensitive” position with the City shall be conditioned upon the applicant’s successful completion of a controlled substance and alcohol test.
- (b). **Commercial Motor Vehicle Drivers.** Any offer of employment to an applicant for a commercial motor vehicle driver position with the City shall be conditioned upon the applicant’s successful completion of a controlled substance and alcohol test.

(8). **Background Investigation.** The City will not hire an applicant without a background investigation. Applicants for employment are required to complete a *Fair Credit Reporting Act Initial Disclosure* form, which authorizes the City to obtain a “consumer report” on the applicant. The consumer report may include, but is not limited to, motor vehicle records check, criminal history check, a credit report, Social Security history, I-9 verification, and verification of prior work history and education. Background investigations will be conducted on all qualified candidates as a final condition of employment with the City.

(9). **Eligibility Rosters.** The City may compile and utilize eligibility rosters for positions with frequent job openings, such as law enforcement officers, corrections officers and communications officers. The recruitment and hiring procedures described in this *PSP* shall be used to recruit and compile the eligibility roster of qualified applicants deemed eligible for hire. Applicants will be evaluated and ranked on an eligibility list. Without further advertising (internal or outside), the City may fill vacancies from the eligibility roster until the roster is exhausted or until the City determines that it is in the City’s best interests to advertise for new applicants. If the City elects to advertise for applicants, any eligible applicants remaining on an existing roster will be integrated into a new eligibility roster. As of the effective date of this *PSP*, eligibility rosters have been established by the City Council for the positions of law enforcement officers, corrections officers, and communications officers only. Additional eligibility rosters beyond these position designations must be approved by City Council.

Section 3.4: Orientation.

Orientation of new employees shall be completed before the employee begins active employment (or as soon thereafter as practicable) and shall include the following:

- (1). The new employee will be introduced to co-workers and to his or her immediate supervisor and Department Head.
- (2). The Human Resources Director or a designee shall: (i) explain and enroll the new employee in any benefits programs for which the employee is eligible; and (ii) ensure the employee has read and signed the acknowledgments for this *PSP*, the Substance Abuse Policy and Program, the City’s Safety Policies and Procedures manual, and any other applicable personnel policies and procedures of which the employee needs to be aware of.

(3). The employee's supervisor will review and explain the responsibilities and duties of the position, the job description for the position, the safety checklist, and the employee's annual performance review. The employee will be required to sign acknowledgments to confirm that the performance appraisal, safety checklist, and the job description have been provided to and reviewed with the employee.

(4). All new employees will be issued a photo ID Badge which should be carried on them at all times while working. Employees who are authorized access into locked security areas of City building(s) will be issued photo ID Badges which also serve as security badges for access into these secure areas. Employees are required to contact the Division of Human Resources immediately in the case of lost or damaged ID and/or security cards.

(5). **Probationary Period.** All *new* **Regular Full-time** and **Regular Part-Time** employees must complete a six (6) month new employee probationary period. All sworn Law Enforcement Officers and professional Fire Fighters must complete a nine (9) month new employee probationary period. The probation period is to allow the new employee to become adjusted to his or her new position and co-workers and to afford the City the opportunity to evaluate the employee's progress to determine whether he or she can satisfactorily perform the duties required of the position. *New* employees are not eligible for the City's Education Assistance Program until after they successfully complete their new employee probationary period.

An employee who is promoted, demoted, or laterally transferred into a new *position* must successfully complete a new position probationary period. At any time during a probationary period, including a new employee probationary period or a new position probationary period, a **Probationary Employee** may be dismissed for any reason the City deems sufficient. Probationary employees are prohibited from applying for, and/or transferring into, other positions at the City until after successful completion of their current probationary period.

Upon the written recommendation of the Department Head and the approval of the Human Resources Director, the employee's probationary period may be extended up to an additional six (6) months (up to an additional nine (9) months for sworn Law Enforcement Officers and Firefighters). If the probationary period is extended, the employee shall be classified as a "**Probationary Employee**" during the extended period.

Section 3.5: Pay and Work Schedules.

(1). **Regular Work Week/Work Period.** The regular work week for Regular Full-Time Employees (excluding Fire Fighters and Law Enforcement and Corrections Officers) is forty (40) hours during each seven (7) day workweek beginning at 12:01 a.m. on Tuesday and ending midnight the following Monday. Subject to variation to meet the needs of the City, the regular workweek is Monday through Friday, 8:00 a.m. to 5:00 p.m. Alternate summer work schedules for certain departments may be established by the Mayor as needed.

The City has established a nineteen (19) day “work period” under the Fair Labor Standards Act (“FLSA”) for fire protection employees (“Firefighters”), and a fourteen (14) day “work period” for Law Enforcement and Corrections Officers collectively (“Law Enforcement Officers”). Firefighters are regularly scheduled to work up to one hundred and forty-four (144) hours during their nineteen (19) day work period. Law Enforcement Officers are regularly scheduled to work up to eight-six (86) hours during their fourteen (14) day work period.

(2). Overtime and Compensatory Time Off.

(a). Overtime. The City shall determine whether each position satisfies the requirements for an exemption under the FLSA. The City shall classify each position as “exempt” or “non-exempt” under the FLSA.

Hourly-paid employees who are *non-exempt* under the FLSA shall be paid overtime pay at the rate of one and one-half (1-½) the employee’s regular rate of pay for all overtime worked. Hours paid, but not worked, are not counted in computing overtime. *For example*, paid holidays, paid vacation and paid sick leave do not count in computing overtime pay.

Except for Firefighters and Law Enforcement Officers, “overtime” includes all hours *worked* in excess of forty (40) hours in a seven (7) day workweek. For Firefighters, “overtime” is all hours worked in excess of one hundred forty-four (144) hours during the regularly-scheduled nineteen (19) day work period. For Law Enforcement Officers, “overtime” is all hours worked in excess of eight-six (86) hours during the regularly-scheduled fourteen (14) day work period. Except in emergencies, employees may *not* work overtime without the prior approval of a supervisor authorized to assign overtime work.

Salaried employees who are *exempt* from the overtime and minimum wage requirements under of the FLSA are paid a bona fide salary for each work week for performing specific jobs, not for the number of hours worked. Accordingly, exempt salaried employees are *not* paid extra for overtime work.

Because exempt salaried employees are paid for performing a specific job, not for the number of hours worked, exempt employees are not paid overtime pay. However, exempt employees generally will receive their full salary for any workweek in which any work is performed subject to a limited number of exceptions. Thus, the salary of an exempt employee may be reduced for: (i) absences of a full workday or more for personal reasons if the employee is not eligible for or has no accumulated sick leave or vacation; (ii) absences of less than a full work day for employee’s utilizing intermittent leave under the City’s Family & Medical Leave policy; and (iii) absences of a full workday or more resulting from a disciplinary suspension.

If an exempt employee believes a deduction has been made improperly, the exempt employee should promptly notify Human Resources. Human Resources will promptly investigate the reason for the deduction in question and, if the deduction should not have been made, the City will reimburse the employee for the amount deducted in the next regularly scheduled paycheck.

(b). Compensatory Time Off. *Non-exempt* employees may elect to accumulate compensatory time off in lieu of overtime. If an employee elects compensatory time off *in lieu* of overtime pay, the employee will accumulate one and one-half (1-½) hours of compensatory time for each overtime hour worked in a workweek (a work period for Law Enforcement Officers and Fire Fighters). With the exception of Law Enforcement Officers and Firefighters, an employee may not accumulate more than 80 hours of compensatory time off. Law Enforcement Officers and Firefighters may not accumulate more than 160 hours of compensatory time off. After an employee accumulates the maximum number of compensatory hours, the employee will be paid overtime pay for all overtime as described above. To enable the City to adjust work schedules, an employee must request compensatory time off as far in advance as possible. The City may deny the request if allowing compensatory time off would unduly disrupt the operations of the City.

If a non-exempt employee has accumulated compensatory time off under this Section 3.5(2)(b), and were to transfer/promote into an exempt position, the employee will be paid for accumulated and unused compensatory time at the employee's current regular rate of pay at the time of transfer/promotion. Additionally, if an employee has accumulated compensatory time off under this Section 3.5(2)(b), upon termination of employment, the employee will be paid for accumulated and unused compensatory time at the employee's final regular rate of pay

Section 3.6: Payroll and Time Clock Procedures.

(1). Payroll Procedures.

(a). City employees are paid every other Friday, or on the preceding Thursday if Friday is a holiday. Completed time and any requested payroll change must be submitted to the Human Resources Division no later than 2:00 p.m. on the Tuesday preceding the Friday payday.

(b). Employees' pay is subject to payroll deductions required by law, including state and federal income taxes and the employees' FICA (Social Security) contribution. Employees may authorize additional payroll deductions that have been approved by the City.

(2). Time Clock Procedure. With the exception of exempt employees, employees are required to record working hours on a time clock. Employees are required to clock-in and clock-out as close as possible to the employee's scheduled starting and finishing time and for the employee's scheduled meal break. Generally, the employee's meal break will be either thirty (30) minutes uninterrupted or one (1) hour uninterrupted, as scheduled by the employee's Department Head. The City's time clocks automatically round off work hours to the nearest quarter-hour in totaling the employee's working time for payroll purposes.

If for some reason an employee does not have access to a time clock, the employee should manually record the time worked and report this time to the supervisor. Upon approval of Human Resources, certain employees without access to a time clock may be set up to clock remotely via the internet. Employees may not record another employee's time, nor may another

employee record the employee's time. Employees shall not alter or falsify time. Violation of these rules is grounds for discipline, including dismissal.

Designated supervisors will ensure that each employee's time is accurate, and that the actual time worked by the employee each work week or work period is recorded accurately in the time and attendance payroll system. Paid time off or unpaid absences shall be recorded as such. All time entries, including manual entries and any authorized overtime, must be reviewed carefully and approved by the employee's Department Head, Immediate Supervisor, or designee.

Section 3.7: Leaves of Absence, Holidays and Attendance.

(1). Paid Sick Leave.

(a). Eligible full-time employees (excluding "*Fire Fighters*" and "*Law Enforcement Officers*") accumulate paid sick leave at the rate of 3.7 hours for each two (2) week pay period, up to a *maximum* of 96 hours of paid sick leave each year of continuous service. Eligible full-time employees (excluding "*Fire Fighters*" and "*Law Enforcement Officers*") may accumulate a *maximum* of 960 hours of paid sick leave.

(b). Eligible "*Fire Fighters*" may accumulate paid sick leave at the rate of 4.40 hours for each (2) week pay period, up to a *maximum* of 114 hours of paid sick leave each year of continuous service. "*Fire Fighters*" may accumulate a *maximum* of 1140 hours of paid sick leave.

(c). Eligible "*Law Enforcement Officers*" may accumulate paid sick leave at the rate of 3.89 hours each two (2) week pay period, up to a *maximum* of 101 hours of paid sick leave each year of continuous service. "*Law Enforcement Officers*" may accumulate a *maximum* of 1008 hours of paid sick leave.

Paid sick leave may be used for an employee's absence from work because of: (1) illness or bodily injury not covered by workers compensation; (2) bodily injury or occupational illness covered by workers compensation for which special leave is not granted; (3) attendance upon members of the immediate family whose illness requires the care of such employee; (4) death in the immediate family of the employee. Immediate family member is hereby defined to include wife or husband, children, grandchildren, parents or grandparents, sister or brother, mother-in-law, father-in-law, grand-parent-in-law, daughter-in-law, son-in-law, brother-in-law, and sister-in-law (and any step relationships within the preceding categories). Where unusually strong personal ties exist, due to an employee's having been supported or educated by a person of some relationship other than those listed, this relationship may be recognized for leave purposes. In each such case the employee shall file with the Human Resources Director a written statement of the circumstances which justify an exception. The Human Resources Director shall forward the request to the Mayor for approval or denial and shall notify the employee of the Mayor's decision.

Paid sick leave is a benefit and is provided to protect employees from financial loss during times when they are unable to work due to illness or injury. Therefore, the intent of paid

sick leave hours is to keep an employee whole in the number of paid hours within their assigned FLSA work period. Therefore, employees will *not* be paid for accumulated sick leave hours over and above their standard number of work hours within their assigned FLSA work period.

Employees will *not* be paid for accumulated paid sick leave upon termination of employment. If the employee is absent from work as a result of an injury covered by workers' compensation, the employee must use paid sick leave or accumulated paid vacation leave during the three day waiting period before workers' compensation benefits begin. Thereafter, the employee will be afforded benefits as provided under applicable workers' compensation laws.

Regular Part-Time Employees accumulate paid sick leave at one-half the rate described above for Full-Time Employees.

Except as provided in the City's Family and Medical Leave Policy in Section 3.7(9), an employee may not use paid sick leave for any reason other than for those reasons as previously defined in this policy under the definition of Sick Leave.

An employee on paid sick leave may be required to submit a doctor's certification to verify the nature of the injury, illness or disability and the anticipated duration of the employee's absence from work. Although the City may require a doctor's certification any time an employee uses paid sick leave, generally an employee will be required to furnish a doctor's certification if the employee is absent for three (3) or more consecutive work days.

Upon returning to work following paid sick leave (or any unpaid leave of absence for illness, injury, or other disability), an employee may be required to provide a doctor's statement to certify that the employee is able to return to work and perform his or her essential job duties, with or without reasonable accommodation.

Donation of sick leave by one employee to another is not permitted. Donation may only be carried out in accordance with the City's Sick Leave Bank Donation program. Employees may obtain further information regarding the City's Sick Leave Bank program by contacting the Human Resources Division.

(2). Administrative Leave With Pay.

(a). Jury Duty. Eligible employees who are summoned for jury duty in state or federal court will be paid their regular rate of pay for any hours they are short during their normally scheduled FLSA Work Period due to the employee serving jury duty. (Exempt salaried employees will be paid their full weekly salary for the workweek that includes jury duty). If the court excuses an employee more than two hours before the end of the employee's scheduled workday, the employee is required to report to work to complete the workday. The employee must provide his or her supervisor with a copy of the jury duty summons as soon as possible after receiving the summons.

(b). Witness Duty. Eligible employees subpoenaed to appear in court will be allowed the time off required to comply with the subpoena. The employee will be paid his or her

regular rate of pay for Witness Duty hours only as necessary in order to cover shortage of hours needed for the employee to reach their normally scheduled hours within their assigned FLSA Work Period. If the court excuses the employee more than two hours before the end of the scheduled workday, the employee is required to report to work to complete the workday.

(c). Criminal or Civil Proceedings and/or for the Good of the City. When alleged violation of disciplinary policy and/or criminal and/or civil proceedings do not merit administrative leave without pay as stated in Section 3.7(3)(a), but the Mayor believes it not to be in the best interest of the City for the employee to remain in the work place until all or some level of the allegations have been resolved, the Mayor may place the employee on administrative leave with pay as a non-disciplinary measure.

(d). Bereavement Leave. Eligible employees may receive up to three “days” off with pay (up to a maximum of 24 hours) for bereavement leave for the death of an immediate family member. Immediate family is hereby defined to include wife or husband, children, grandchildren, parents or grandparents, sister or brother, mother-in-law, father-in-law, grand-parent-in-law, daughter-in-law, son-in-law, brother-in-law, and sister-in-law (and any step relationships within the preceding categories). Where unusually strong personal ties exist, due to an employee’s having been supported or educated by a person of some relationship other than those listed, this relationship may be recognized for leave purposes. In each such case the employee concerned shall file with the Human Resources Director a written statement of the circumstances which justify an exception to the general rule. The Human Resources Director shall forward the request to the Mayor for approval or denial and shall notify the employee of the Mayor’s decision. Approved Bereavement Leave hours will be paid out at the regular rate of pay and only as necessary in order to cover shortage of hours as needed for the employee to reach their normally scheduled hours within their assigned FLSA Work Period. As a benefit to employees, the City may also provide one (1) floral arrangement in the event of a death of an immediate family member of an employee. Employees should contact the Human Resources Division directly to request the ordering of a floral arrangement.

(e). Voting Time. If the polls are not open at least two hours before *or* two hours after an eligible employee’s regularly-scheduled work hours for a federal, state, county or local election, an employee may take up to one full hour off with pay to vote before or at the end of the employee’s regular work schedule. An employee must notify his or her Department Head to obtain prior approval for paid voting time off.

(3). Administrative Leave Without Pay.

(a). Criminal or Civil Proceedings or Disciplinary Action of a Serious Nature. During the investigation or trial of any criminal charge against an employee, or during the course of any civil action involving an employee as a party to the action, the Mayor may place the employee on administrative leave without pay as a non-disciplinary measure if the administrative leave would, in the judgment of the Mayor, be in the best interest of the City. If the employee is reinstated upon completion of the criminal or civil

proceeding, the Mayor *may* authorize payment of back pay and benefits for the period of the administrative leave without pay. Otherwise, the leave will be without pay. Leave without pay for appointed City Officials are done by the Mayor and City Council.

(b). Other Leaves of Absence. With the approval of the Mayor, an employee may be granted administrative leave without pay for an emergency or for other special personal circumstances. The Mayor has discretion to determine whether an administrative leave without pay will be granted and, if so, the duration of the leave. An employee must submit a written request to the Human Resources Director for an administrative leave of absence without pay as far in advance as practicable under the circumstances. The request should state the reason for the requested leave and the inclusive dates the employee will be absent, if known. If administrative leave without pay is granted by the Mayor, the time off will be treated as continuous employment with the City. An employee will *not* be eligible for employee benefits and shall not accumulate employee benefits such as paid sick leave and paid vacation leave during an administrative leave without pay exceeding sixty (60) day(s).

(4). Annual Paid Vacation Leave.

(a). Eligible full-time employees (excluding “Fire Fighters” and “Law Enforcement Officers”) accumulate annual paid vacation leave (“vacation”) as follows:

- Immediately upon hire and throughout first year of employment: 1.54 hours paid vacation accumulated each two-week pay period, up to a maximum of forty (40) hours paid vacation for the first year of employment. However, employees may not use accrued vacation until after successful completion of the new hire probationary period.
- After one year of continuous service: 3.08 hours paid vacation accumulated each two-week pay period, up to a maximum of eighty (80) hours paid vacation each year.
- After ten (10) years of continuous service: 4.62 hours paid vacation accumulated each two-week pay period, up to a maximum of one hundred twenty (120) hours paid vacation each year.
- After twenty (20) years of continuous service: 6.16 hours paid vacation accumulated each two-week pay period, up to a maximum of one hundred sixty (160) hours paid vacation each year.

Eligible full-time employees (excluding “Fire Fighters” and “Law Enforcement Officers”) may not carry-over more than 160 hours of accumulated paid vacation from one year to the next (the vacation year begins on the anniversary or the employee’s hire date each year). Vacation time in excess of 160 hours will be forfeited if not used during the vacation year.

With the exception of probationary employees, eligible, full-time employees (excluding “Fire Fighters” and “Law Enforcement Officers”) whose employment terminates in good standing (*for example*, a resignation with proper notice or an economic reduction in force), shall be paid for accumulated paid vacation up to a maximum of 160 hours.

(b). Eligible “*Fire Fighters*” accumulate annual paid vacation leave (“vacation”) as follows:

- Immediately upon hire and throughout first year of employment: 1.83 hours paid vacation accumulated each two-week pay period, up to a maximum of 48 paid vacation hours each year. Employees may not use accrued vacation until after successful completion of the new employee probationary period.
- After one (1) year of continuous service: 3.66 hours paid vacation accumulated each two-week pay period, up to a maximum of 95 paid vacation hours each year.
- After ten (10) years of continuous service: 5.49 hours paid vacation accumulated each two-week pay period, up to a maximum of 143 paid vacation hours each year.
- After twenty (20) years of continuous service: 7.32 hours paid vacation accumulated each two-week pay period, up to a maximum of 190 paid vacation hours each year.

“*Fire Fighters*” may not carry-over more than 190 hours of accumulated paid vacation from one year to the next (the vacation year begins on the anniversary or the employee’s hire date each year). Vacation time in excess of 190 hours will be forfeited if not used during the vacation year.

With the exception of probationary employees, “*Fire Fighters*” whose employment terminates in good standing (*for example*, a resignation with proper notice or an economic reduction in force), shall be paid for accumulated paid vacation up to a maximum of 190 hours.

(c). Eligible “*Law Enforcement Officers*” accumulate annual paid vacation leave (“vacation”) as follows:

- Immediately upon hire and throughout first year of employment: 1.62 hours paid vacation accumulated each two-week pay period, up to a maximum of 42 paid vacation hours each year. Employees may not use accrued vacation until after successful completion of the new employee probationary period.
- After one (1) year of continuous service: 3.23 hours paid vacation accumulated each two-week pay period, up to a maximum of 84 paid vacation hours each year.

- After ten (10) years of continuous service: 4.85 hours paid vacation accumulated during each two-week pay period, up to a maximum of 126 paid vacation hours each year.
- After twenty (20) years of continuous service: 6.47 hours paid vacation accumulated each two-week pay period, up to a maximum of 168 paid vacation hours each year.

“*Law Enforcement Officers*” may not carry-over more than 168 hours of accumulated paid vacation from one year to the next (the vacation year begins on the anniversary or the employee’s hire date each year). Vacation time in excess of 168 hours will be forfeited if not used during the vacation year.

With the exception of probationary employees, a “*Law Enforcement Officer*” whose employment terminates in good standing (*for example*, a resignation with proper notice or an economic reduction in force), shall be paid for accumulated paid vacation up to a maximum of 168 hours.

(d). Regular Part-Time Employees accumulate annual paid vacation at one-half (1/2) the rate described above for full-time employees (*for example*, immediately upon hire, .77 hours for each eighty (80) hours *worked* during each two-week pay period, up to a maximum of 20 hours paid vacation each year).

(e). Temporary employees and Interns do not accumulate paid vacation leave.

(f). Approved vacation leave hours will be paid out at the regular rate of pay and only as necessary in order to cover shortage of hours as needed for the employee to reach their normally scheduled hours within their assigned FLSA Work Period.

(5). Military Leave. The City does not want employees to suffer any loss of employment status if they perform military training or service in the United States Armed Forces or as a member of the U.S. Reserves or National Guard. An employee will be granted a leave of absence without pay for required active military service or training as required by law. Upon completion of active military service, the employee will be reinstated to his or her former position or to a substantially equivalent position without loss of employment status if the employee makes a timely application for reinstatement after the date he or she is discharged from military duty.

An employee who returns from military leave will be eligible for any paid sick leave or paid vacation accumulated *before* entering military service. Alternatively, the employee may request to be paid for accumulated vacation when the employee leaves employment to enter into active military service. If the employee will be on active military duty for longer than 30 days, the City will not continue group health insurance coverage. However, the employee may continue the coverage at group rates, at his or her expense, as provided by law.

An employee who is a member of the National Guard or the United States Reserves will be granted a leave of absence *with pay* for up to 168 working hours each calendar year to attend mandatory training with his or her unit. If an employee is called to active military duty, the City will pay the difference between the employee's *lower military pay* and the higher City pay during the period of active duty, up to a period of five years, and will maintain other employee benefits to the extent required by law. The employee's *lower military pay* in this case means *basic pay* and does not include special and incentive pay nor allowances that the employee may be receiving in addition to their *basic pay* (AGO 2002-270).

An employee must provide to the Division of Human Resources formal documentation of military assignment(s) and any military compensation pay vouchers prior to the City approving employee compensation during military leave.

An employee should give his or her Department Head as much notice as practicable if the employee will be absent from work for military service.

(6). Attendance/Absenteeism.

Regular attendance is an essential function of every job with the City. While personal circumstances, often beyond an employee's control, sometimes necessitate lost work time, absenteeism and tardiness must be kept to a minimum. "Tardiness" includes reporting for work after the scheduled starting time, leaving work early, leaving work before the scheduled meal break or returning to work late from the meal break.

If an employee cannot report for work, including reporting to work late or an absence, the employee must notify his or her supervisor or the supervisor's designee before the normal starting time, if practicable. If an emergency causes an employee to be late or absent from work and the employee is unable to notify his or her supervisor before the normal reporting time, the employee should contact the supervisor within 30 minutes after the employee's regular starting time. The employee must advise the supervisor of the reason for the absence or tardiness and when the employee expects to return to work. If an employee is late or absent without notifying his or her supervisor, the employee is subject to discipline as a "no call/no show." If an absence continues beyond one scheduled workday, the employee must report to the supervisor each scheduled work day *unless* the employee has advised the supervisor of the anticipated duration of the absence or the employee is on approved leave of absence for a specified duration. An employee who is absent from work on three consecutive workdays without notifying his or her supervisor will be considered to have abandoned his or her job and will be classified as a "voluntary quit."

In coordination with the HR Director, the employee's Department Head will determine whether an employee's stated reason for an absence is sufficient for an *excused* absence. The City's payroll system will maintain an attendance record for each employee. *Unexcused* absenteeism or tardiness is a ground for discipline, up to and including dismissal. Even excused absenteeism or tardiness, however, is a ground for discipline, up to and including dismissal, if it becomes excessive. Generally, an excused absence for a single reason (a five-day illness, for example) will be treated as a *single* excused absence. Approved leaves of absence, including

family and medical leave, military leave and jury duty leave, will *not* be deemed absences and will not be considered in determining whether absenteeism is “excessive.”

(7). Holidays. The following paid holidays shall be recognized by the City for eligible employees, unless specifically directed otherwise:

- New Year’s Day
- Martin Luther King Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran’s Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Eve
- Christmas Day

Holidays that fall on Saturday will be observed on the preceding Friday; those falling on Sunday will be observed on the following Monday. Full-time employees who are required to work during a scheduled holiday will receive their normal holiday pay on top of their worked hours. Regular part-time employees who are required to work on a scheduled holiday will receive their normal holiday pay on top of their worked hours.

Temporary employees, including seasonal employees and Interns, do not receive paid holidays. If a Temporary Employee or Intern works on a paid holiday, they will be paid for the time worked.

(8). Educational Leave. Educational Leave may be granted by the Mayor. To be eligible for educational leave, the requested leave must be for education or training that, in the judgment of the Mayor, will directly benefit the City. Educational leave is without pay.

(9). Family Medical and Servicemember Leave Policy - “Eligible employees” may request up to twelve (12) weeks unpaid leave during any twelve (12) month period:

- For the birth of a child (mother or father), or the placement of a child with the employee for adoption or foster care (including child care after birth or placement for adoption or foster care). If both a husband and wife are eligible employees, they may take a total of twelve (12) weeks combined for these reasons. Leave to care for a child after birth, after adoption, or placement for foster care, must be taken within one (1) year after the birth or placement of the child.
- To care for the employee’s spouse, child, or parent with a “serious health condition.”
- For the employee’s “serious health condition.”
- For “*any qualifying exigency*” if an employee’s spouse, child or parent is activated to

deploy or deployed to any foreign country with the U.S. Armed Forces, the National Guard or the U.S. Reserves. A “*qualifying exigency*” leave must be related to the activation for deployment or deployment to a foreign country and includes: (i) notice of a deployment (limited to seven calendar days beginning on the date a covered military member is notified of deployment); (ii) military events and related activities; (iii) childcare and school activities; (iv) making or updating financial and legal arrangements; (v) attending counseling related to the military call-up; (vi) rest and recuperation to spend with a military member on short-term leave (limited to five days per leave); and (vii) post-deployment activities (within 90 days following termination of active duty status).

Servicemember Family Leave. On a per covered servicemember, per injury basis, eligible employees may take up to 26 weeks of leave in a *single* 12-month period to care for a covered *servicemember*. A covered *servicemember* is a member of the U.S. Armed Forces, the National Guard, the U.S. Reserves, or veteran who was a member of the of the Armed Forces during the previous five years who is either the child, spouse, parent *or next of kin* of the eligible employee, and who, due to an injury or illness incurred in the line of duty, (i) is undergoing medical treatment, recuperation, or therapy, *or* (ii) is otherwise in outpatient status, *or* (iii) is otherwise on the temporary disability retired list for a serious injury or illness.

If an eligible employee takes *servicemember* leave *and* regular family and medical leave during the 12-month period, he or she is entitled to a total of 26 weeks of leave. *For example*, if an eligible employee does not take any regular family and medical leave during a 12-month period, the employee may take up to 26 weeks of *servicemember* leave during that 12 months. However, if the eligible employee took 12 weeks of family and medical leave during the 12 months, he or she could take up to 14 weeks of *servicemember* leave during that 12 months, for a total of 26 weeks. In both cases, the employee would have exhausted *all* of his or her *servicemember* leave, *which may be taken only one time*.

Eligible Employees. To be eligible for family and medical leave or *servicemember* leave, the employee must meet both of the following conditions: (1) he or she must have worked for the City at least twelve (12) months (52 weeks), which need not be consecutive months; and (2) he or she must have worked at least one thousand two-hundred and fifty (1,250) hours during the twelve (12) months immediately preceding the date the requested family and medical or *servicemember* leave begins.

Employment Following Leave. When an employee returns to work following a family and medical or *servicemember* leave, he or she will be assigned to the former job or to an equivalent job with the same pay, benefits and working conditions. If the employee does not return to work following a family and medical leave, the employee’s employment may be dismissed and he or she may be required to reimburse the City for any group health insurance premiums the City paid during the leave, unless the failure to return to work is due to circumstances beyond the employee’s control such as the continuation of a serious health condition or a new serious health condition arising. “Return to work” is defined as the employee returning to his or her regular employment with the City for at least thirty (30) consecutive scheduled workdays.

Employment Benefits During Leave. During an approved family and medical or servicemember leave, the employee's group health insurance, if any, will continue on the same basis as if he or she were not on leave. The City will continue to pay its portion of the premium and the employee must pay his or her share of the premium on time. If the employee fails to pay his or her portion of the premium when due, insurance coverage may terminate. Employees do not accrue paid leave or any other benefits while on family and medical or servicemember leave. Employees may continue other benefits, if any, as permitted by the particular benefit plan by arranging in advance to make any required contributions or premium payments.

Serious Health Condition. A "serious health condition" is an illness, injury impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Intermittent Leave or a Reduced Work Schedule. Intermittent or rescheduled leave may be granted, if medically necessary, for a serious health condition. Intermittent leave or a reduced-schedule will not be granted for the birth of a child or for childcare. The employee should consult with his or her treating physician to schedule any necessary medical treatment to avoid unnecessary disruption of City operations. In all cases, the total family and medical or servicemember leave will not exceed a total of twelve (12) weeks over a twelve (12) month period.

Computing Leave Entitlement. In determining whether an employee has taken his or her full entitlement of 12 weeks unpaid leave of absence during a twelve-month period, the City uses a "rolling" twelve-month period measured backward from the date an employee requests to begin family and medical leave. *For example*, if an employee requests family and medical leave beginning September 1st, the City would measure backward to September 1st of last year to determine whether the employee has already used 12 weeks of family and medical during that 12-month period.

Section 3.8: Procedure for Requesting Leave.

(1). Request for Family and Medical Leave and Servicemember Leave. Unless the reason for FMLA leave is unforeseeable, the employee must request family and medical or servicemember leave by submitting a completed *FMLA Request for Leave of Absence* form to the Human Resources Division before the leave is to begin. If possible, the employee must give at least thirty (30) days notice before the date that leave is to begin. If this is not possible, the employee must provide as much notice as is practicable under the circumstances. The Human Resources Division will give the employee a written determination on a *Notice of Eligibility and Rights and Responsibilities* form. An employee may be required to report every two (2) weeks to

the Human Resources Division regarding the status of his or her medical condition and intent to return to work. If an employee does not request FMLA leave, but the City determines that a leave of absence qualifies for family and medical or servicemember leave, including a leave for a serious health condition covered by workers' compensation, the City may designate the leave as family and medical leave or servicemember leave.

Certification and Recertification.

Serious Health Condition.

If an employee requests FMLA leave for a serious health condition, the employee may be required to provide a medical certification of the condition, and, if the leave is requested to care for an employee's spouse, child, or parent with a serious health condition, to certify the need for the employee to provide care. The City may require recertification on a reasonable basis during the leave. The certification must be provided on a *Certification of Health Care Provider for Employee's Serious Health Condition* or a *Certification of Health Care Provider for Family Member's Serious Health Condition* form, both of which are available from the Human Resources Director. After the City receives a completed medical certification, the City will give the employee a *Designation Notice* which will state whether the leave is approved, unapproved or if more information is needed for the City to make a determination. The City may require a second medical opinion from a health care provider chosen by the City at the City's expense to verify any such certification. If the second opinion differs from the certification provided by the employee, the City may require, at its expense, the opinion of a third provider chosen jointly by the City and by the employee. The third opinion will be final and binding. When the employee seeks to return to work following an approved family and medical leave for the employees' serious health condition, the employee must provide a medical certification stating that the employee is able to perform his or her essential job duties. If the employee is not able to do so, the medical certificate must describe any limitation on the employee's ability to perform his or her essential job duties so a determination can be made whether reasonable accommodation can be made that will enable the employee to perform the duties.¹

Qualifying Exigency Leave.

If an employee requests leave for a qualifying exigency, the employee may be required to provide a completed *Certification of Qualifying Exigency for Military Family Leave*, which is available from the Human Resources Division.

Servicemember Family Leave.

¹ The *Genetic Information Non-Discrimination Act* ("GINA") prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of employees or their family members. In order to comply with this law, the City asks that you not provide any genetic information when responding to this request for medical information. 'Genetic information,' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

If an employee requests leave for Servicemember Family Leave, the employee may be required to provide a completed *Certification of Serious Injury or Illness of a Covered Servicemember*, which is available from the Human Resources Division.

For more information regarding FMLA, and/or, to obtain any of the FMLA forms referenced in this *PSP*, the employee should contact the Human Resources Division.

(2). Requests for Other Leaves. Unless the reason for leave is unforeseeable, the employee must request other types of leave such as paid sick leave, annual vacation leave, and administrative leave without pay by submitting a completed leave request form to the employee's supervisor at least thirty (30) days before the requested leave would begin. If the employee is unable to provide the requested 30 days notice prior to the leave, the employee must submit the request as early as practicable under the circumstances.

(3). Use of Paid Leave. An employee must use any accumulated paid leave, including any accrued vacation or sick leave at the beginning of their family and medical or servicemember leave. After the employee has exhausted paid leave, the rest of the family and medical or servicemember leave, if any, will be unpaid.

(4). Failure to Return From Leave. An employee will be considered to have voluntarily quit his or her employment if; 1) he or she does not return to work on or before the third day after an approved leave of absence expires without notifying the City and obtaining an approved extension, or 2) he or she engages in other employment while on approved leave of absence. An employee is subject to termination if he or she gives false reasons for a requested leave.

More Information. For more information regarding FMLA, employees should contact the Human Resources Division.

Section 3.9: Travel.

From time to time, employees may be required to travel outside of the City to conduct City business or to attend meetings and conferences, or to take part in job related training. Employees should adhere to the City's current *Travel Policy*, *Credit Card Usage Policy*, and general *Purchasing Policy* when arranging travel. Employees should contact the Finance Division if they have questions related to travel and/or to ensure they have the current policies prior to making their travel arrangements.

(1). Authorized Attendance. The number of employees authorized to make any particular trip for City business, or to attend a work-related meeting or conference, will be limited to the number of employees necessary to achieve the City's business purpose. The Department Head and/or designee is responsible for determining how best to achieve this objective.

(2). Transportation Costs. Transportation costs for travel are reimbursable. Transportation costs will be reimbursed in accordance with the City's *Travel Policy and Procedures* in effect at the time of the employee's travel.

(3). Use of Personal Vehicle. If transportation by automobile is required for City business, travelers should make use of City-owned vehicles whenever possible. When transportation is by City-owned vehicle, all operating expenses such as gas, oil and repair bills are allowable. If a City owned vehicle is not available and a personally owned vehicle is used, the traveler shall be reimbursed at the current year's Internal Revenue Service per mile allowance rate and in accordance with the City's *Travel Policy and Procedures*.

(4). Lodging and Meals. The costs of lodging and meals incurred while traveling on City business is reimbursable if the trip requires the employee to stay overnight. To be eligible for reimbursement, expenses must be *reasonable* business class for the area. For example, a business class hotel room in Washington D.C. could be expected to cost more than a similar room in Montgomery, Alabama. All expenses must be documented with receipts in accordance with the City's *Travel Policy and Procedures*.

(5). Entertainment Costs. In accordance with the City's *Travel Policy and Procedures*, entertainment costs shall *not* be reimbursable, regardless whether the expense was for City-related business.

(6). Request for Reimbursement. All travel expenses and requests for reimbursement must be properly documented and submitted to the Finance Division in accordance with the City's *Travel Policy and Procedures*. Questions regarding the *Travel Policy* and/or travel procedures should be referred to the City's Finance Division. Failure to follow these policies may result in denial of reimbursement for travel related expenditures.

(7). Employee Compensation. Regular commuting time between an employee's home and the job site is not compensable. In contrast, all time spent by employees traveling as part of their regular job duties must be counted as "hours worked."

If an employee is called to perform a job after regular work hours, all the time spent, including the time traveling to and from the job site, is hours worked. Similarly, if an employee who normally works at one location is required to travel from home to another city a significant distance away for a one day special assignment and to return home the same day, all of the travel time will count as time worked, except for bona fide meal periods and for the time normally spent by the employee going from home to work and back.

If an employee is required to take an overnight trip that keeps the employee away from home overnight, all time spent traveling during the employee's regularly-scheduled workday must be counted as hours worked. Similarly, time spent traveling on Saturdays, Sundays and holidays that corresponds to the employee's regularly-scheduled work hours also must be counted as time worked. The time spent traveling outside of regular working hours is not compensable.

Of course, if an employee actually performs work while traveling, the time spent performing the work is compensable (e.g., if an employee on an overnight trip actually performs work while traveling on an airplane after regular scheduled hours, the time worked is compensable.).

CHAPTER IV

BENEFITS.

Section 4.1: General Statement.

The City of Foley offers various benefit programs to eligible City of Foley employees and their covered dependents. Below is a general listing of various benefit programs available through the City to eligible employees. Employees should contact the Division of Human Resources to enquire about benefit programs for which they may be eligible.

Section 4.2: Immediate Benefits Upon Employment.

Eligible employees shall receive the following benefits beginning on the employee's hire date.

(1). Employee Retirement System (ERS). Eligible employees participate in the Alabama Employee Retirement System, which is administered exclusively by ERS. Participation in the ERS is mandatory if the employee's position is: (1) a non-temporary or permanent position; (2) on at least a half-time (50%) basis; and (3) earning at least the federal minimum wage. To classify a position as temporary and therefore *ineligible* to participate in ERS, the temporary position must have a predetermined dismissal date with the employment period being less than one year. **Note: Certain elected officials who meet the foregoing requirements and who are elected to office after the adoption of the Constitutional Amendment authorizing elected officials' participation in the ERS are required to participate.**

New eligible City employees, including those previously employed with an agency participating in the ERS or the Teacher's Retirement System (TRS), shall complete a FORM 100, MEMBER INFORMATION RECORD. Once enrolled, the member must continue participation until employment is dismissed, even if the employment is less than half-time (50%). Once the City submits the employee's enrollment form to the ERS, the new employee will be mailed an ERS "Summary Plan Description."

- Tier 1 Members (hired prior to January 1, 2013): Employee contributions are 5% of base pay and 6% of base pay if a Certified Law Enforcement Officer or Certified Fire Fighter. Retirement benefits are available with 25 years of service to retire at any age OR at age 60 with at least 10 years of service.
- Tier 2 Members (hired for the first time on or after January 1, 2013): Employee contributions are 6% of base pay and 7% of base pay if a Certified Law Enforcement Officer or Certified Fire Fighter. Retirement benefits for regular employees are available at age 62. Retirement benefits for Certified Law Enforcement Officer or Certified Fire Fighter are available at age 56.

Temporary employees employed longer than one year and who are employed on at least a one-half (50%) basis and who earn the prevailing minimum wage must begin participation in the ERS at the beginning of the second consecutive year of employment. The member will be given an opportunity to purchase the first year of temporary employment as “error service.”

Exceptions for ERS Participation Include: (1) active members of TRS; and (2) persons in receipt of a retirement benefit from the ERS.

An employee is considered fully vested with the City once they have accumulated the equivalent of ten (10) years of full-time service. Retirees who are fully vested with the City will have the option of continuing their current health care coverage under the City’s health plan until the retiree becomes eligible for Medicare. Currently covered spouses of retirees may continue on the City’s health plan for up to five (5) years, or, until they become eligible for Medicare, whichever occurs first. Contact the Division of Human Resources for more information regarding the ten (10) vesting rule with the City as it relates to health care coverage.

(2). Deferred Compensation Plans. Public employees in Alabama may increase their personal savings and add to their retirement savings by investing in an Internal Revenue Code Section 457 Deferred Compensation Plan. The City has two Deferred Compensation Plans available to eligible employees and administered by the Retirement System of Alabama and Empower Retirement Plan. . These plans are qualified deferred compensation plans that offer a way for employees to save for retirement through pre-tax payroll deduction. Any public official or employee of the state of Alabama or any political subdivision thereof (including City of Foley employees) is eligible to participate in the Deferred Compensation Plans, regardless of age or participation in the Retirement Systems of Alabama (RSA). Participation in a Deferred Compensation Plan is strictly voluntary. Detailed information regarding the plan will be provided to eligible employees upon request.

(3). Cafeteria Plan. Eligible employees may participate in a Cafeteria Plan which is administered by Prime Pay and authorized by the Internal Revenue Service. The plan allows employees to save tax dollars throughout the year through a pre-tax payroll deduction. The funds may then be used for payment of benefits available under the cafeteria plan during the plan year. Detailed information regarding the plan will be provided to eligible employees upon request.

(4). Sick Leave. Eligible employees accumulate paid sick leave as described in Section 3.7(1) of the *PSP*.

(5) Vacation Leave. Eligible employees accumulate paid vacation leave as described in Section 3.7(4) of the *PSP*.

(6). Uniforms. Employees in certain departments such as Sanitation and Public Works, who require durable type uniforms, will be provided uniforms that are maintained by an outside uniform service. These uniforms are the property of the City. Upon dismissal of employment, each employee must return all uniforms issued. Employees will be charged for uniforms that are unusable as a result of employee neglect.

(7). **Optional Benefit – Direct Deposit of Pay Check.** An employee may choose to use the City’s direct deposit plan for payroll checks. The plan has various features. *For example*, one option allows the employee to deposit a portion of his or her paycheck in a savings account and the remainder in a checking account. Further information will be provided to an employee during the new employee orientation or upon request to the Human Resources Division.

(8). **State of the City Address.** Employees are entitled to attend and participate in the Mayor’s Annual State of the City Address Luncheon, which generally takes place in December of each year. Each employee may bring one guest, free of charge, to the event. Employees and their guests are encouraged to attend this event to facilitate communication and awareness of the City’s activities, opportunities and challenges between all the departments and employees of the City and with their guests.

(9). **Pool Pass.** Dependent upon availability and at the discretion of the Recreation Department, employees may receive an individual or family pool pass each year for access to the City of Foley pools.

Section 4.3: Benefits Available on First Day of Month Following Hire Date.

(1). **Health Insurance.** The City provides group health insurance for eligible employees, currently through Blue Cross and Blue Shield of Alabama. The City of Foley is fully self-insured and pays 100% of employee and covered dependent(s) health, vision, hearing, prescription drugs, and dental claims costs at no premium cost to the employee. Employees who elect family coverage are currently required to pay a premium cost of \$134.94 a month for health, vision, hearing, and prescription drugs, and, \$20.00 a month for dental coverage. Employee premiums are payroll deducted semi-monthly. Employee health and dental premium costs are not guaranteed and the City has the option of increasing or decreasing employee premium costs at any time.

(2). **Prescription Drug Benefits.** The City also provides group prescription coverage for eligible employees and their dependents at no additional premium cost to the employee.

(3). **Employee On-Site Health Care Clinic.** Employees and their covered dependents (at least 2 years old) who are under the City’s Blue Cross Blue Shield insurance may voluntarily participate in the City’s on-site health care clinic and wellness incentive program. Eligible employees are encouraged to contact the Division of Human Resources for more information.

(4). **Employee Assistance Program (EAP) and Mental/Nervous and Substance Abuse Program.** The City offers EAP group coverage to eligible employees and their covered dependents which provides up to three (3) free visits per year. The EAP is a confidential assessment, counseling and referral service for everyday living problems, NOT clinical diagnoses and other serious disorders which are covered under the Mental Health Benefits. The Mental/Nervous and Substance Abuse programs are designed to provide disorder identification, clinical treatment referrals and crisis intervention for employees and covered dependents.

Eligible employees are encouraged to contact the Division of Human Resources for more information.

(5). Short Term and Long Term Disability Insurance. The City provides disability insurance coverage for eligible employees through a disability insurance carrier to provide income when an employee is unable to work due to a *qualifying* disability. All decisions on coverage are made by the insurance carrier providing the disability insurance coverage. The City pays 100% of the premium under the plan for eligible employees who are regularly scheduled to work thirty (30) hours or more per week.

(6). \$10,000 Life and Accidental Death and Dismemberment Insurance. The City pays 100% of the premium for \$10,000 life and accidental death and dismemberment insurance coverage for all eligible employees. The employee may obtain additional life insurance coverage in excess of \$10,000, but the employee is required to pay the full premium for the additional coverage by payroll deduction.

Section 4.4: Benefits Available After Completion of Probationary Period

(1). Educational Assistance. An Education Assistance Program is offered by the City to encourage and to assist eligible employees in maintaining or improving job-related knowledge in the employees' present positions or to enable employees to enhance or acquire qualifications for future City positions for which the individual reasonably may be expected to qualify. Employees become eligible for this program upon successful completion of their new hire probationary period. Funding for the Education Assistance Program is approved on a first come, first serve basis, and is subject to annual budgetary funding as determined by Mayor and Council each fiscal year.

For those employees who voluntarily enroll in approved educational courses (Master's Degree or lower), the City will reimburse tuition costs (excluding text books, fees, etc.) up to \$3,000 per fiscal year per employee for approved course work that is successfully completed with a grade of "C" or above, or, a "passing" grade in the case where a pass/fail grading system is utilized. Employees may obtain a copy of the *Application for Education Assistance* form and the *Education Assistance Reimbursement* form by contacting the Division of Human Resources. Application forms must include sufficient detail along with supporting documentation to justify both educational assistance and reimbursement. Forms must be signed by the employee and the employee's Department Head and forwarded directly to the HR Director for processing and approval by the Mayor. The City, in its sole discretion, shall determine whether any educational course or program qualifies for educational assistance. Employees are encouraged to pursue other forms of financial assistance for tuition costs wherever and whenever possible (scholarships, grants, VA assistance, etc.). Employees who receive financial assistance must disclose the source and amount on their *Tuition Reimbursement Application*. Based on the amount of financial assistance received from other sources, the City will adjust the tuition reimbursement.

An employee receiving educational assistance is expected to continue employment with the City for two (2) years after *reimbursement* of the course(s). If an employee voluntarily leaves

employment with the City or is terminated for cause within one year after expense reimbursement, the employee is required to repay the City the total amount (100%) of reimbursement. If the employee voluntarily leaves employment of the City or is terminated for cause between one year and two years after expense reimbursement, the employee is required to repay the City for one-half (50%) of the total amount of reimbursement. The amount of reimbursement shall be repaid to the City by deduction from the employee's final paycheck(s). In the event that the employee's final paycheck(s) is less than the amount to be reimbursed to the City, the employee will be required to submit to the City the remaining funds owed. In the event that the employee fails to reimburse the City for any remaining funds, and the services of an attorney are required to collect the remaining funds, attorney fees and other associated legal costs may be added to the amount owed to the City.

(2). Sick Leave Bank. The Mayor and Council Members recognize that illnesses or injuries can occur and cause extreme hardships on the employees and their families. The intent of the sick leave bank program is to protect employees who may have exhausted all of their available leave due to their own catastrophic illness and/or injury or that of an immediate family member. The program establishes an equitable way of allowing employees to share their accumulated leave with others in need of additional leave until such time that the employee may become eligible for the City's short-term and long-term disability programs or to allow time to care for their immediate family member. Upon completing the required probationary period, the employee may either a) donate one (1) leave day (total of 8 hours) or b) elect to join at the next annual open enrollment period. If the employee elects not to participate upon completion of their probationary period, and then wishes to enroll during a future open enrollment period, the employee must have a minimum of five days accrued leave (40 hours) to become eligible for enrollment. Employees should contact the Division of Human Resources for additional information regarding this program and their eligibility.

CHAPTER V

EMPLOYEE RESPONSIBILITIES AND CONDUCT: DISCIPLINARY ACTION; AND GRIEVANCE PROCEDURE.

Section 5.1: Code of Conduct.

All City employees are expected to represent the City to the public in a professional, courteous, efficient and helpful manner. Employees must maintain a clean and neat appearance appropriate to their position and work assignment.

The proper working relationship between the City and its employees depends on each employee's job performance, professional conduct and behavior. The City has established minimum standards of personal conduct. Among the City's expectations are:

- Respect and courtesy in dealing with the public and fellow employees;
- Adherence to City policies, procedures, safety rules and safe work practices;
- Compliance with directions from supervisors;
- Preserving and protecting the City's equipment, facilities, and resources;
- Providing quality and cost efficient services to its citizens.

To function efficiently, City employees may be asked to perform duties outside of regular job assignments from time to time. Job assignments of this kind are necessary for the City to provide full services to our residents. Employees must perform all job assignments. To make the most efficient use of employees and resources, the City reserves the right to change employees' job assignments and duties.

Section 5.2: Rules of Conduct.

Rules of conduct are essential for a safe, harmonious and productive workplace and to ensure that the City provides quality service to residents and maintains a good relationship with the community. The City's rules of conduct must be enforced to be effective. All employees must abide by all rules, policies and procedures, including any safety rules applicable to the employees' particular job. The rules are for employees' protection as well as for the protection of others.

The City has developed rules of conduct to guide employees' on-the-job behavior. Employees should become thoroughly familiar with these rules. If an employee has a question, the employee should ask his or her supervisor or Department Head for clarification. General rules are *not* an all-inclusive list of the grounds for discipline or dismissal and do not limit the City's discretion to discipline or dismiss employees for other reasons the City deems sufficient. Moreover, the nature of the discipline imposed for a violation may be affected by the circumstances surrounding a particular violation. Although the City normally uses progressive discipline, in each case the City will decide the appropriate discipline to be imposed.

The following are *examples* of actions that may result in disciplinary action, including immediate dismissal:

- Engaging in violent or threatening behavior including verbal threats.
- Providing false or misleading information or withholding material information for any employment related purpose, including on employment applications, time records and other employment related documents.
- Unauthorized use, possession, misuse, destruction, theft or conversion of the City's facilities/property.
- Unauthorized use of an employee's position with the City for personal gain or advantage, including accepting unlawful gratuities or bribes.
- Dishonesty.
- Disruption of City business or the work of other employees.
- Unauthorized operation or use of City vehicles, machines, tools or equipment.
- Unauthorized recording of another employee's time.
- Unexcused tardiness or absenteeism; Excessive tardiness or absenteeism, (even if excused). Absence without proper notification.
- Failure to exert normal job effort or failure to work cooperatively with co-workers or supervisors.
- Sleeping on the job.
- Making false or derogatory statements or engaging in actions or activities that reasonably would be expected to damage the integrity or reputation of the City or its employees.
- Disorderly conduct, including fighting, on City property.
- Use of intimidating, coercive, or obscene language or gestures to the public or to fellow employees.
- Conduct unbecoming a City employee while on duty.
- Gambling on City property.
- Refusal or failure to perform assigned work, (including an unreasonable refusal to work overtime as directed) or failure to report to work during an emergency call-in, or concealing defective work.
- Failure to observe safety practices, rules, regulations, and instructions. Failure to wear required safety clothing and equipment.
- Failure to promptly report to your immediate supervisor an on-the-job accident causing injury to any person, or damage to City equipment or City property.
- Unsatisfactory job performance or neglect of assigned duties.
- Violation of the City's "Substance Abuse Policy and Program."

- Unauthorized possession of explosives or weapons of any kind or any other dangerous instrumentalities on the job or in work areas.
- Conviction (including a guilty plea,) of a felony, or any crime that involves moral turpitude, or any crime that is related in any way to the employee's job with the City.
- Any verbal abuse of a supervisor, including profanity, name-calling or ridicule directed at the supervisor
- Use of recording devices to record on-the-job conversations involving City employees.
- A violation of the City's EEO/Harassment Policy.
- A violation of any other City policies established under the *PSP*.

As public employees, off-the-job behavior that causes embarrassment to the City, or in any way reflects negatively on public service, may result in disciplinary measures.

Section 5.3: Safety.

(1). General Safety Practices. Each employee is responsible for maintaining a safe workplace and following the City's safety rules. Each employee shall promptly report any unsafe or potentially hazardous condition to his/her Department Head. The City will promptly remedy any unsafe condition.

All employees must follow the City's *Safety Policies and Procedures Manual* and *Substance Abuse Policy and Program*. Employee safety depends on the safety consciousness of everyone. To facilitate a safe work environment, employees may not bring weapons of any kind to the workplace. This includes, but is not limited to, firearms for which employees have a valid permit. The only exception is law enforcement officers for which the job requires possession of weapons as part of their job.

(2). Reporting Work-Related Accidents. In case of any accident, regardless how serious, the employee(s) involved shall immediately notify his or her Supervisor or Department Head. An investigation into the cause of the accident shall be conducted as soon as possible after notification. A copy of each accident report shall be provided to the Human Resources Director.

If an employee is injured on the job, the Department Head is responsible for completing the First Report of Injury, and instructing the employee on the proper procedures to obtain medical assistance, or procuring such assistance if the employee is unable to do so.

Section 5.4: Computer Use.

(1). Computer Use. In conducting City business, the City relies on internal and external e-mail, the internet and various computer software programs to access information necessary to perform City work effectively. This communication technology is the City's property and is intended for business use.

Only software approved by the City may be installed on City computers, and no City software may be copied or used in a manner that would violate the City's software licenses.

Employees have no personal right of privacy with respect to the City's internet access, e-mail, or information obtained on the internet. The City may review, audit and download e-mail messages and web browsing content that employees send and/or receive. Sending or receiving personal e-mail messages, or using the internet for personal use, should be kept to a minimum. Recreational "surfing" of the internet is prohibited.

Employees shall not use any City communication equipment or computer system, including e-mail, to communicate any information (including words, pictures, cartoons, *etc.*) that could be construed as a violation of our *Equal Employment Opportunity/Harassment Policy*. Specifically prohibited are hostile, intimidating, offensive, insulting or demeaning words, pictures, cartoons, *etc.*, about a person's race, color, religion, sex (including pregnancy, childbirth and related medical conditions), national origin, age (40 and over), genetic information, citizenship or military obligations.. Employees shall not use any City communication system to communicate any words, pictures, cartoons, *etc.* that could be construed as sexual harassment, including the use of profane or vulgar language, unwelcome sexual flirtations, sexual advances or sexual propositions, sexually oriented or suggestive jokes or comments, comments about a person's body or sex life, sexually degrading words, including sexual slang used to describe any person, sexually suggestive or vulgar cartoons or graffiti, *etc.* Similarly, employees shall not print, display, or download any sexually explicit messages or material, and shall not access web sites, chat rooms, *etc.* on the internet containing sexually explicit material of any kind.

Employees who violate our policy on the use of City computers and other communication systems are subject to discipline, up to and including dismissal.

(2). Social Media Communications. During non-working time or when City employees are away from work, many choose to engage in personal communications with co-workers and others using computers and other communication devices. *For example*, an employee might communicate with a co-worker, a friend or a family member on a social networking website (such as Facebook, MySpace or LinkedIn), *via* "instant or text messaging," *via* e-mail, or by posting information on a blog, *etc.* (called "Social Media Communication").

The City recognizes the growing importance of Social Media Communications and respects City employees' right to use these media during their personal time. However, the use of City computers for Social Media Communications is subject to our policy on *Computer Use* in Section 5.4(1) above. Social Media Communication on City computers for personal reasons must be kept to a minimum.

The City does not seek to interfere with employees' Social Media Communications during non-working time utilizing *personal* communications devices. The City does *not* access or monitor these communications in any manner. However, you should be aware that your personal Social Media Communications could, one day, be brought to the attention of a co-worker, a supervisor, a Department Head or an Appointed City Official. Even though you may

have considered your communication to be a private personal communication, if the other person(s) with whom you chose to communicate (*via* Facebook, text message or e-mail, *for example*) choose to share your communication with others, and your communication is brought to the attention of the City, the City reserves the right to take whatever action the City deems appropriate *if* the content of your communication violates City policies or rules of conduct, including taking disciplinary action. *For example*, if a supervisor includes a sexist or racial comment about a City employee in a Social Media Communication, and that comment is brought to the attention of the City, the City reserves the right to take whatever disciplinary action the City deems appropriate, up to and including dismissal. *Another example*: if an employee engages in Social Media Communication with a co-worker in a manner that violates our *Equal Employment Opportunity/Harassment Policy*, and the communication is brought to the attention of the City, the City reserves the right to take whatever action the City deems appropriate, including disciplinary action up to and including dismissal.

In summary, please keep in mind that, when you communicate with others *via* Social Media Communication, your communication can be recorded or printed or otherwise memorialized by the persons to whom you sent the communication and later shown or “published” *to other people with whom you had no intention of sharing your communication*. If your communication is brought to the City’s attention, and the communication warrants disciplinary or other appropriate action for a violation of City policies or rules, the City has the right to take such action even if you did not intend to share your communication.

Section 5.5: Cellular Telephone Usage.

Certain employees, primarily Department Heads and other key supervisory personnel, may be assigned cellular telephones to conduct City business quickly and efficiently. These are to be used only when a traditional “land-line” telephone is unavailable. This applies regardless of whether the employee is using a City cell phone or the employee’s personal cell phone.

If employees bring personal cell phones to work, personal calls are to be made *only during break or meal periods*. Incoming personal phone calls should be dismissed promptly. Abuse of cell phone usage will lead to disciplinary measures.

Section 5.6: Personal Use of City Equipment and Supplies.

Use of City phones for local personal phone calls should be kept to a minimum; long distance personal calls are prohibited. City equipment and supplies should be used by employees for City business only. An employee's misuse of City services, telephones, vehicles, equipment or supplies may result in disciplinary action up to and including dismissal.

Section 5.7: Personal Appearance.

Employees in certain departments will be provided uniforms as covered in Section 4.2(6) of this *PSP* . The uniforms are the property of the City and must be returned upon dismissal of employment. It is the responsibility of each employee to ensure his or her uniform is maintained and laundered properly.

All employees must be properly attired and groomed for their work environment. If the Department Head concludes an employee's attire is inappropriate, the employee may be relieved of duty and sent home (without pay) to change.

Section 5.8: Investigation of Misconduct.

To protect City employees and City property, the City must be able to investigate suspected unauthorized conduct. Employees are required to cooperate and to assist the City in investigating unauthorized conduct. As a condition of continued employment, the City has the right to conduct (a) *reasonable suspicion* testing for use of illegal drugs or controlled substances, and (b) *reasonable suspicion* searches of employee vehicles, work areas and personal property on City premises. Employees in safety sensitive positions also are subject to *random* controlled substance testing. An employee's refusal to cooperate in an investigation, including a refusal to submit to a reasonable suspicion search or a reasonable suspicion or random controlled substance or alcohol test, if requested to do so, is a ground for discipline, up to and including dismissal.

Section 5.9: Disciplinary Action.

Violations of rules of conduct or employment policies, or any other conduct deemed unacceptable in the workplace, or unsatisfactory job performance may result in discipline, including dismissal.

Supervisors and Department Heads should strive to recognize performance problems and potential disciplinary problems before disciplinary action becomes necessary. Supervisors and Department Heads are encouraged to counsel employees informally in an effort to avoid disciplinary action.

If discipline is necessary, the following types of disciplinary actions may be imposed, depending on the particular situation. The City reserves the right to determine whether misconduct or performance shortcomings are so unacceptable that immediate dismissal is warranted for the first offense. The Mayor, or an Executive, a Department Head or a supervisor, delegated the authority by the Mayor, may impose discipline subject to review and approval by the Mayor.

Verbal Warning. A verbal warning is appropriate to notify the employee of performance shortcomings or minor violations of City policies or procedures in an effort to help the employee improve. The employee's immediate supervisor or Department Head is authorized by the Mayor to issue a verbal warning. The supervisor or the Department Head issuing the verbal warning shall complete a "Record of Employee Verbal Warning" form, sign and date the form, and review the form with the employee. The employee shall be required to sign the form to acknowledge the form has been reviewed with the employee by the supervisor or Department Head. A copy of the form will be provided to the employee, and a

copy of the form shall be maintained in the employee's personnel file. Verbal warnings are not subject to the disciplinary procedures under *PSP §§ 5.10 and 5.11*.

Written Warning. A written warning is appropriate to notify the employee of more serious or repeated performance shortcomings or violations of City policies or procedures. The employee's Department Head or immediate supervisor is authorized by the Mayor to issue a written warning. A written warning may be given without a prior verbal warning if the Department Head determines a written warning is warranted. The supervisor or Department Head shall complete an Employee Written Warning form, sign and date the form, and review the form with the employee. The employee shall be required to sign the form to acknowledge that the form has been reviewed with the employee by the supervisor or the Department Head. A copy of the form will be provided to the employee, and a copy shall be maintained in the employee's personnel file. Written warnings are not subject to the disciplinary procedures under *PSP §§ 5.10 and 5.11*.

Unpaid Suspension/Disciplinary Demotion. If an employee has received verbal or written warning(s), or if performance shortcomings, policy violations or other misconduct are deemed more serious, an employee may receive an unpaid suspension of up to 30 days without pay or, if appropriate, a disciplinary demotion. The Mayor is authorized to impose an unpaid suspension or disciplinary demotion. The length of the suspension will vary depending upon the severity of the offense or performance shortcoming and the employee's prior disciplinary or performance record. If warranted, the employee may receive a disciplinary demotion or suspension as the first step in the disciplinary process. Employees are not allowed to use paid vacation or any other paid leave while on suspension.

Dismissal. The final disciplinary step is dismissal. Employees who fail to improve their conduct or performance after progressive discipline will be dismissed. The City reserves the right to dismiss an employee without first giving a verbal or written warning or a suspension, if the City determines that the misconduct or unacceptable performance justify immediate dismissal.

For a suspension without pay, a disciplinary demotion or dismissal, covered employees have access to the **Pre-Determination Hearing** under *PSP § 5.10* and the **Post-Disciplinary Hearing Procedure** under *PSP § 5.11* only as provided under *PSP § 1.2: Coverage of PSP*.

Section 5.10: Pre-Determination Hearing.

If a covered employee is subject to a proposed disciplinary demotion with a reduction in pay, an unpaid suspension or dismissal, the employee may request a predetermination hearing before discipline. Any such proposed disciplinary action against an employee shall be referred to the Human Resources Director. Before the proposed action may be imposed, the Human Resources Director, acting on behalf of the Mayor, shall deliver written notice to the employee stating the reasons for the proposed action, a brief statement of the facts supporting the reasons, and the nature of the proposed action to be imposed. The written notice shall advise the employee that he or she has five (5) working days from the date of receipt of the notice to request in writing a pre-determination hearing. If the employee desires the opportunity to respond to the proposed action before the action is imposed, the employee must deliver a written request for review, signed by the employee and dated, to the Human Resources Director within five (5) working days after the employee receives written notice of the proposed action. If the employee timely delivers written notice of a request for review, a predetermination hearing will be scheduled promptly.

If the employee fails to request a hearing in writing within the five (5) working days, the right to any pre-determination hearing shall be deemed waived. If the employee does submit a timely written request, the employee will be given written notice of the date, time and place of the pre-determination hearing. The employee, the Mayor, the Human Resources Director, and the Department Head or other supervisor recommending the discipline will attend the hearing. The Mayor may uphold, revoke or modify the proposed discipline. At the hearing, the employee may: (a) present any response the employee may wish to offer to the reasons for the proposed discipline, (b) offer any documents the employee would like to be considered, and (c) present any witnesses the employee would like to be heard. The pre-determination hearing is the opportunity for the employee to give his or her “side of the story” before the decision is made to impose discipline. The pre-determination hearing shall be informal. Legal counsel may attend, but shall not be allowed to participate in the hearing.

Following the pre-determination hearing, the Mayor shall make the decision whether discipline will be imposed and, if so, the nature of the discipline to be imposed. The Human Resources Director will deliver written notice of the Mayor’s decision to the employee. The City will impose the discipline at that time. All documents related to the final discipline imposed shall be maintained in the employee’s personnel file.

Section 5.11: Post-Disciplinary Hearing.

(1). Request for Post-Disciplinary Hearing.

Only **Regular Full-Time** and **Regular Part-Time Employees** have access to this **Post-Disciplinary Hearing Procedure** for a suspension without pay, a demotion that results in a loss of pay, or dismissal.

Regular Full-Time and Regular Part-Time employees may seek review of these disciplinary actions by filing a written request for a post-disciplinary hearing before the

Personnel Action Committee. If an employee wishes to seek review of an action covered under this section, the employee must prepare a written request for review by the Personnel Action Committee and deliver the request to the Human Resources Director within five (5) working days after the employee is notified of the final disciplinary action. The request should describe the action taken, the reason(s) the employee believes the action should be changed or rescinded, and specifically request a hearing before the Personnel Action Committee. The hearing before the Personnel Action Committee shall be scheduled within thirty (30) working days after the employee's written request is delivered to the Human Resources Director unless the time is extended by the Human Resources Director for good cause.

(2). Personnel Action Committee (PAC).

The Personnel Action Committee shall be composed of three members who are appointed by the Mayor with approval of the City Council. *Generally*, the role of the PAC is two-fold. *First*, to determine, based on the evidence presented at the hearing, whether the employee engaged in the conduct for which he or she was disciplined. *Second*, if the PAC determines the employee *did* engage in the conduct, to determine whether the discipline imposed by the City is permissible discipline under the *PSP* or should be modified to impose lesser discipline. The PAC is *not* authorized to impose more severe discipline.

Personnel Action Committee members shall serve until removed by the Mayor with approval of the City Council or until a member dies or resigns. Personnel Action Committee members may be removed for any reason deemed sufficient by the Mayor with the approval of the City Council. The HR Director shall contact the members of the Personnel Action Committee to schedule the Post-Decision Hearing.

(3). Post-Decision Hearing.

The hearing before the Personnel Action Committee will be open to the public unless the employee or the Mayor requests a hearing in executive session. Executive session may be convened based on advice of legal counsel and in compliance with the Alabama Open Meetings Act. Public notice of the hearing shall be provided by the City Clerk as required by applicable law. The hearing shall be informal. The Committee is not required to follow rules of discovery, rules of procedure or rules of evidence applicable in any court or administrative proceedings. The employee shall have the right to appear and testify, to present testimony of witnesses, to present documents, to question witnesses offered by any other party, and to be represented by legal counsel. The City shall have the same rights in responding to the employee's appeal.

If the employee fails to attend the hearing or to notify the Human Resources Director that, for good cause, he or she will be unable to attend the hearing as scheduled, the Personnel Action Committee shall dismiss the employee's appeal. A court reporter may be retained by the City to record the post-disciplinary hearing. Within fifteen (15) calendar days after the date of the post-disciplinary hearing, unless the time is extended for good cause by the Personnel Action Committee, the Personnel Action Committee shall issue a written decision. The decision shall state the discipline imposed, the reason(s) for the discipline, and the vote of the Personnel Action Committee. The decision shall not recite the evidence presented or the identity of witnesses who

testify at the hearing. The decision shall be by a majority vote. The Personnel Action Committee's decision may approve, disapprove or modify the disciplinary action imposed by the City. The Human Resources Director shall deliver a copy of the decision to the employee.

The Personnel Action Committee shall not have any authority to review any decision implemented by the Mayor, with the approval of the City Council, based upon budgetary or other financial constraints, including but not limited to a decision to terminate an employee's employment due to a job elimination or reduction in force, a pay adjustment, or a job reassignment.

Section 5.12: Disciplinary Action/Adverse Employment Action /EEO /Harassment Policy.

If *any* employee of the City (including **Regular Full-Time** and **Regular Part-Time employees, Managerial employees, Appointed Officials, Municipal Judges, Probationary Employees, Temporary Employees, Interns** and **Special Employees**) believes that a disciplinary action or any other adverse employment action has been taken against the employee in violation of the City's *Equal Employment Opportunity/Harassment Policy*, the employee has access to and must use the "Complaint Procedure" under the EEO/Harassment Policy *in addition to* accessing any applicable disciplinary procedures available to the employee.

Section 5.13: "Law Enforcement Officers" Disciplinary Suspensions, Disciplinary Demotions and Dismissal Procedures.

All City of Foley Policy Department employees, including "**Law Enforcement Officers**" are subject to the *PSP*. The Police Department has developed additional departmental policies and procedures that apply to the Police Department employees. *Additionally*, the Police Department has developed a pre-disciplinary hearing procedure that applies to disciplinary suspensions without pay, disciplinary demotions and dismissal of "**Law Enforcement Officers**," as provided under Alabama law. Accordingly, the **Pre-Determination Hearing** and **Post-Disciplinary Hearing Procedure** under *PSP* §§ 5.10 and 5.11 shall *not* apply to "Law Enforcement Officers" covered under the Police Department procedures.

CHAPTER VI

CHANGES IN EMPLOYMENT STATUS.

Section 6.1: Promotion.

Generally, if a current employee has the qualifications required for an available position, the current employee shall be accorded preference for promotion into the position. When an employee is being promoted, the maximum pay increase they can receive is either 8% above their current annual salary, or, the minimum annual salary of the new pay grade, whichever is greatest.

Section 6.2: Temporary Promotion.

Temporary promotions may be made only when deemed necessary by the Mayor. Only upon *prior* written approval of the Mayor (or designee), will a temporary promotion be allowed. Generally, temporary promotions are for a time period exceeding thirty (30) days. Upon approval by the Mayor of a temporary promotion, the employee shall receive written notice of the temporary promotion, the effective date, and the rate of pay that the employee will receive during the time period of the temporary promotion. The employee shall receive a rate of pay not less than his or her regular rate, or the entry rate of the temporary position, whichever is greater. This policy does *not* apply to personnel relieving other personnel on account of vacations, sick leave or other extended absences, or to employees temporarily assigned to a higher classified job for less than thirty (30) days.

Section 6.3: Demotion.

An employee may be demoted to a position in a lower job classification for unsatisfactory performance, for disciplinary reasons or as result of financial/budgetary constraints. When an employee is demoted into a new position, the employee's pay will be re-calculated in the new pay grade range at the same relative position as the employee's pay was in his or her former pay grade range.

(1). Unsatisfactory Performance/Demotion. An employee may be demoted if he or she is not satisfactorily performing the duties and responsibilities of the assigned position as determined by the results of a performance review or another evaluation deemed appropriate by the City. An employee also may be demoted for disciplinary reasons.

(2). Fiscal/Budgetary Reasons. If a reduction in the number of employees or positions is deemed necessary for budgetary and fiscal reasons, an employee may be demoted to a lower classified position. Employees shall receive two (2) weeks notice of a demotion for these reasons. The Mayor and City Council must approve all demotions for budgetary or fiscal reasons. Employees demoted because of budgetary and fiscal limitations shall be considered transferred, and shall be given priority for promotion to their former positions and rates of pay if such positions are reinstated.

Section 6.4:

Transfers. Transfers of employees from one position to another position within the same pay grade in the pay classification plan may be made at the discretion of the Mayor to achieve efficient operations. Whenever a transfer is proposed, the employee(s) involved will be afforded the opportunity to provide relevant information the employee(s) wishes to be considered.

Section 6.5: Suspension.

An employee may be suspended from work without pay in accordance with the City's *Disciplinary Action and Grievance Procedure* as outlined in Chapter 5 of this *PSP*.

Section 6.6: Termination of Employment.

The City recognizes the following kinds of dismissal of employment:

(1). Resignation. An employee who wishes to resign in good standing must submit written notice of resignation at least two (2) weeks in advance stating the reasons for the resignation. Failure to give the required notice may render the employee ineligible for future employment with the City of Foley.

(2). Job Abandonment (Voluntary Quit). An employee who quits without proper notice will be deemed to have abandoned his job and will be treated as a "voluntary quit" rather than a "resignation." Employees who fail to report to work for three consecutive scheduled workdays without notifying his or her supervisor or Department Head will be considered to have abandoned their position with the City and will be deemed a "voluntary quit."

(3). Dismissal. Dismissal is an *involuntary* termination of employment. Dismissal may be for disciplinary reasons, including unsatisfactory job performance and violations of policies procedures and rules in this *PSP*. Dismissal may also result from an economic reduction-in-force or job elimination for financial or budgetary reasons as determined by the Mayor and the City Council.

(4). Reduction in Force. The Mayor, with the approval of the City Council, may reduce the workforce for lack of work, budgetary restrictions, reorganizations or other business or economic circumstances that justify such action. If a reduction in force is necessary, an employee may either be dismissed or laid-off with the opportunity to return if circumstances permit. If a reduction in force is necessary, employees will be retained based primarily on the needs of the City and the qualifications required to perform the remaining jobs. If qualifications are comparable for a particular position, generally employees who have previously performed the job and who have seniority based on continuous employment with the City (based on hire date) will be retained.

(5). Retirement. Employees desiring to retire should contact the Human Resources Director as far in advance of their anticipated retirement date as practicable. The City follows

any deadlines as established by the Retirement Systems of Alabama for those employees eligible for retirement benefits under the Retirement Systems of Alabama.