

## Chapter 40

### PERSONNEL POLICIES

**[HISTORY: Adopted by the Town Council of the Town of Callahan as indicated in article histories. Amendments noted where applicable.]**

#### GENERAL REFERENCES

Salaries and compensation – See Ch. 53.

#### ARTICLE I

##### Old Age and Survivors Insurance

**[Adopted 1-16-1956 as Ord. No. 1-1956]**

##### **§ 40-1. Declaration of policy and purpose.**

It is hereby declared to be the policy and purpose of the Town of Callahan, Florida, to extend effective as of January 1, 1956, to the employees and officials thereof, not excluded by law nor excepted herein, the benefits of the system of old age and survivors insurance as authorized by the Federal Social Security Act and amendments thereto, and by Chapter 650, Florida Statutes, as amended; and to cover by such plan all services which constitute employment as defined in F.S. § 650.02, performed in the employ of said Town by employees and officials thereof, except service of emergency nature, service in all elective positions and service on a fee basis.

##### **§ 40-2. Exclusions.**

There is hereby excluded from this article any authority to include in any agreement entered into under § 40-3 hereof any service, position, employee or official now covered by or eligible to be covered by an existing retirement system.

##### **§ 40-3. Authority of Mayor to execute agreements.**

The Mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the Florida Industrial Commission, as state agency, for the purpose of extending the benefits provided by said system of old age and survivors insurance to the employees and officials of this Town as provided in §§ 40-1 and 40-2 hereof, which agreement shall provide for such methods of administration of the plan by said Town as are found by the state agency to be necessary and proper, and shall be effective with respect to services in employment covered by such agreement performed on and after the first day of January, 1956.

##### **§ 40-4. Authority to withhold from salaries.**

Withholdings from salaries, wages or other compensation of employees and officials for the purpose provided in § 40-1 hereof are hereby authorized to be made and shall be made in the

amounts and at such times as may be required by applicable state or federal laws or regulations and shall be paid over to the state agency designated by said laws or regulations to receive such amounts.

**§ 40-5. Appropriations for contributions and assessments.**

There shall be appropriated from available funds derived from taxation such amounts at such times as may be required to pay promptly the contributions and assessments required of the Town as employer by applicable state or federal laws or regulations, which shall be paid over to the lawfully designated state agency at the times and in the manner provided by law and regulation.

**§ 40-6. Town to keep required records.**

The Town shall keep such records and make such reports as may be required by applicable state or federal laws or regulations and shall adhere to the regulations of the state agency.

**§ 40-7. Acceptance of terms of Social Security Act.**

The Town does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges and other conditions thereunto appertaining of Title II of the Social Security Act, as amended, for and on behalf of all officers and employees of its departments and agencies to be covered under the agreement.

**§ 40-8. Treasurer designated as custodian of sums.**

The Treasurer of the Town is hereby designated the custodian of all sums withheld from the compensation of officers and employees and of the appropriated funds for the contribution of the Town, and the Clerk of said Town is hereby made the withholding and reporting agent and charged with the duty of maintaining personnel records for the purposes of this article.

ARTICLE II

**Leaves, Vacations and Holidays**

**[Adopted 3-21-1978 as Ord. No. 1-1978]**

**§ 40-9. Sick leave.**

- A. Each employee of the Town shall accrue weekly sick leave days up to a maximum of 96 hours per year. [Amended 6-20-2005 by Ord. No. 6-O-2005; 1-22-2019 by Ord. No. 2018-O06]
- B. Unused sick leave shall be carried forward and accrued from year to year.
- C. Sick leave shall be taken only for the injury or illness of oneself, spouse, dependent or other close relative residing in the employee's household.
- D. Pregnancy, for the purpose of this article, shall be deemed an illness, and the employee may elect to take sick leave for any such days missed.
- E. If unable to report for duty due to injury or illness, the employee shall notify his or her

immediate supervisor, department chief or department commissioner at the earliest possible time, but not later than his or her reporting time. [Amended 1-22-2019 by Ord. No. 2018-006]

- F. After three (3) consecutive days of absence, a doctor's slip may be required.
- G. Any work missed which is compensated by workman's compensation shall not be deducted from the employee's accrued sick leave.
- H. (Reserved)
- I. Employees will not receive any payment for unused sick leave upon the end of their employment by the Town, regardless of the reason for the end of employment. [Added 7-3-1995 by Ord. No. 1-O-1995; amended 6-20-2005 by Ord. No. 6-O-2005]

**§ 40-10. Personal leave.**

- A. Sixteen hours per year, of sick leave may be taken for personal reasons. [Amended 6-20-2005 by Ord. No. 6-O-2005; 1-22-2019 by Ord. No. 2018-006]
- B. Personal leave must be applied for at least two days in advance.
- C. All personal leave must be approved in advance by the employee's immediate supervisor, department chief or department commissioner.

**§ 40-11. Bereavement leave.** [Amended 6-1-1987 by Ord. No. 3-O-1987; 1-22-2019 by Ord. No. 2018-006]

Up to three days' leave may be granted to an employee by the employee's immediate supervisor, department chief or department commissioner due to the death of the employee's spouse, dependent, mother, father, brother or sister unless otherwise approved by the Mayor. The last day off shall be the day following the funeral unless otherwise approved by the Mayor. One day of leave may be granted for extended family. All leave for out-of-Town deaths will require proof of death at the discretion of the Mayor.

**§ 40-12. Jury duty.**

An employee who is selected for and/or serves on a jury shall be compensated for the difference between what he/she receives as jury duty pay (excluding expenses for jury duty) and his or her regular daily pay. Said employee will submit verification of such service and moneys received to his or her department commissioner for reimbursement of the pay differential.

**§ 40-13. Miscellaneous leave.**

An employee's absence from work may be granted by that employee's department commissioner when it is deemed beneficial to the Town of Callahan, Florida, and the employee.

**§ 40-14. Vacations.**

- A. Vacation time will be accrued weekly at the rate of 80 hours per year. No vacation time

may be taken during the first six months of employment. [Amended 1-22-2019 by Ord. No. 2018-006]

- B. After five years' continuous employment, vacation time will be accrued weekly at the rate of 120 hours per year. [Amended 1-22-2019 by Ord. No. 2018-006]
- C. After 10 years' continuous service, vacation time will be accrued weekly at the rate of 160 hours per year. [Amended 1-22-2019 by Ord. No. 2018-006]
- D. After 20 years' continuous service, vacation time will be accrued weekly at the rate of 240 hours per year. [Amended 1-22-2019 by Ord. No. 2018-006]
- E. All vacation time must be applied for at least 30 days prior to its starting date and must be approved by the employee's immediate supervisor or department chief and department commissioner.
- F. Each eligible employee will be required to take a vacation which will, insofar as practicable, be granted at the time most desired by the employee. The department commissioner reserves the right to rearrange vacation schedules for good cause.
- G. Employees may draw up to 1/2 of accrued vacation hours per year while continuing to work, with the approval of the employee's department head. Under no circumstances will any employee draw more than 1/2 of accrued vacation hours in one year while continuing to work. [Amended 6-20-2005 by Ord. No. 6-O-2005; 1-22-2019 by Ord. No. 2018-006]
- H. An employee may elect to draw his or her vacation for time lost due to illness or injury.
- I. An employee may not carry over more than 160 hours of accrued vacation past December 31 of any year. [Added 6-1-1987 by Ord. No. 3-O-1987; amended 7-3-1995 by Ord. No. 1-O-1995; 6-20-2005 by Ord. No. 6-O-2005; 1-22-2019 by Ord. No. 2018-006]
- J. An employee shall not be allowed to take more than fifteen (15) consecutive days of vacation unless approved by the Mayor or Town Council President. [Added 6-1-1987 by Ord. No. 3-O-1987; amended 7-3-1995 by Ord. No. 1-O-1995]
- K. Upon retirement or termination of employment, an employee may either take his or her accrued vacation days or be paid as lump sum by the Town at his or her regular rate of pay for all accrued vacation days; provided, however, that the total number of vacation days for which an employee may be compensated may not exceed 30 days. In the event that the termination of employment is due to the death of the employee, any benefits hereunder shall be paid to his or her estate. [Added 7-3-1995 by Ord. No. 1-O-1995]

**§ 40-15. Paid holidays.** [Amended 10-20-1997 by Ord. No. 1-O-1997; 9-21-2009 by Ord. No. 2009-10; 1-5-2015 by Ord. No. 2015-O01]

- A. The following days shall be paid holidays for all full-time employees:

New Year's Day  
Birthday of Martin Luther King, Jr.  
Washington's Birthday  
Good Friday  
Memorial Day  
Independence Day  
Labor Day  
Veteran's Day  
Thanksgiving Day  
Day after Thanksgiving  
Christmas Eve  
Christmas Day

- B. If a paid holiday falls on a Saturday, the holiday shall be observed on the preceding Friday for purposes of Town administration. If a paid holiday falls on a Sunday, the holiday shall be observed on the following Monday for purposes of Town administration.
- C. Any employee who is required to work on a paid holiday shall be compensated by multiplying his or her average daily pay times 1 1/2.

**§ 40-16. Applicability.** [Added 7-3-1995 by Ord. No. 1-O-1995; amended 6-6-2005 by Ord. No. 7-O-2005]

- A. All sick leave and vacation time will accrue only during days actually worked, paid holidays, sick leave, and paid vacation time.
- B. This article applies in full only to full-time employees of the Town.
- C. "Full-time" employees are those that qualify as full time under applicable law or whose average scheduled hours are 30 or more hours per week. [Amended 1-22-2019 by Ord. No. 2018-O06]
- D. (Reserved)<sup>1</sup>
- E. (Reserved)<sup>2</sup>
- F. (Reserved)<sup>3</sup>
- G. (Reserved)<sup>4</sup>

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1. Editor's Note: Former Subsection D, regarding regular part-time employees, was repealed 1-22-2019 by Ord. No. 2018-O06.

2. Editor's Note: Former Subsection E, regarding the application to regular part-time employees, was repealed 1-22-2019 by Ord. No. 2018-O06.

3. Editor's Note: Former Subsection F, regarding part-time accrual of leave, was repealed 1-22-2019 by Ord. No. 2018-O06.

4. Editor's Note: Former Subsection G, regarding part-time holiday pay, was repealed 1-22-2019 by Ord. No. 2018-O06.

H. This article has no application to employees whose average scheduled hours are less than 30 per week. [Amended 1-22-2019 by Ord. No. 2018-O06]

**§ 40-17. Disqualification of certain employees.** [Added 7-3-1995 by Ord. No. 1-O-1995]

All other provisions of this article notwithstanding, any employee who is found guilty in a court of competent jurisdiction of committing, aiding, or abetting any embezzlement or theft from the Town or bribery in connection with his or her employment or whose employment is terminated by reason of the employee having admitted committing, aiding, or abetting an embezzlement or theft from the Town or by reason of bribery; shall forfeit all rights and benefits under this article. If the Mayor advises the Town Council of a pending investigation which might reasonably lead to disqualification, no terminal payments shall be made until the conclusion of such investigation and subsequent prosecution, if any. An employee whose employment terminates as a result of an act committed subject to this section shall not be given credit for unused vacation or sick leave accumulated prior to termination should the employee be reemployed at a later date. A conviction shall not be necessary in order for forfeiture of benefits to occur.

ARTICLE III

**Drug and Alcohol Policy**

[Adopted 8-2-1993 by Ord. No. 2-O-1993]

**§ 40-18. Statement of policy.**

- A. It is the policy of the Town to maintain a work environment that is free from the influence of alcohol and/or illegal controlled substances.
- B. Employee applicants for regular positions and temporary positions will be subject to a pre-employment drug test and shall be disqualified for employment with the Town for six months if they test positive for an illegal controlled substance.
- C. Employees on duty or on Town property shall not use or be under the influence of alcohol and/or illegal controlled substances; shall not purchase or possess alcohol and/or illegal controlled substances; shall not sell, facilitate the sale of, or otherwise provide alcohol and/or illegal controlled substances to any person; shall not manufacture alcohol and/or illegal controlled substances; and shall not in any manner have their ability to work impaired as a result of the use of alcohol and/or illegal controlled substances. Violations of this policy shall be grounds for disciplinary action, up to and including dismissal.
- D. All employees will be subject to an annual drug test as a periodic monitoring tool, because impaired performance increases risk to life or catastrophic loss of public or private property, and the need to protect their well-being.
- E. The Town is committed to providing reasonable accommodation to those employees who voluntarily participate in a rehabilitation program or whose drug and/or alcohol problem classifies them as handicapped under federal law.

- F. An employee who voluntarily participates in a rehabilitation program or who is deemed handicapped due to his use of alcohol and/or drugs may be retained and allowed to seek rehabilitation if the Town determines the employee's continued employment would not cause a direct threat to property or safety or erode public confidence in the function of the Town.
- G. When an employee is injured, disabled or dies from an accident arising out of and in the course of his employment, and the injury, disability, or death is occasioned primarily by the intoxication of the employee by alcohol or an illegal controlled substance or a narcotic drug, barbiturate or other stimulants not prescribed by a physician, the employee may not be eligible for workers' compensation benefits.

**§ 40-19. Purpose.**

The Town is committed to the protection of its citizens and to the maintenance of a safe, healthy, and productive work environment for its employees. Consequently, the Town will not tolerate any condition which increases the potential for accidents, substandard performance, or harm to people or property.

**§ 40-20. Applicability.**

This policy shall apply to all Town employees in both temporary and regular positions.

**§ 40-21. Employee requirements.**

All employees are expected to report to work in a state of mind and physical condition so as to perform their assigned duties safely and competently. To this end, employees must:

- A. Report to work and be able, throughout the workday to perform job duties in a manner that is not impaired or influenced by the use of alcohol and/or illegal controlled substances.
- B. Not use or be under the influence of alcohol and/or illegal controlled substances while on duty.
- C. Not possess or purchase alcohol and/or illegal controlled substances at any time while on duty, on Town property or in Town vehicles other than for a work related reason.
- D. Not manufacture alcohol and/or illegal controlled substances while on duty, on Town property, or in a Town vehicle or equipment.
- E. Neither directly nor indirectly sell or otherwise provide illegal controlled substances to any person while on duty, on Town property, or in Town vehicles or equipment, nor sell or otherwise provide alcohol for consumption on the job.
- F. Submit immediately to an alcohol/drug test under the circumstances described in this policy when required by an appropriate designated supervisor.
- G. If using an over-the-counter or prescription drug which is in any way influencing the

employee's ability to perform his job (i.e., causing drowsiness, slowing reaction times, distorting perception, etc.), he must request temporary reassignment or leave as appropriate. Under no circumstances shall an employee work in a condition which increases risk to life, limb or property. An employee who fails to advise his supervisor of legal drug use which is negatively affecting his job performance is subject to disciplinary action.

- H. Immediately report any observed violation of this policy to the Mayor. This report can be made anonymously and should include the name of the employee who is allegedly violating this policy as well as the type of violation and any relevant information concerning the violation (i.e., where, when and what kind of violation).
- I. Notify the Mayor within five calendar days if they have been arrested for or convicted of an alcohol or drug offense occurring at the workplace, or of a conviction for a drug offense occurring outside the workplace, or if their license has been suspended or revoked for a drug or alcohol offense and a valid driver's or commercial license is required for their jobs.
- J. Insure that any information handled by the employee regarding alcohol and drug tests, investigations or infractions is discreetly handled, with information not being communicated beyond those who have a need to know. Failure to properly handle alcohol and drug information may result in disciplinary action up to and including dismissal.

**§ 40-22. Supervisors requirements.**

- A. The implementation of this policy is the responsibility of the Mayor and supervisors. The Town reserves the right to use whatever means the law allows to provide a workplace which is free of alcohol and/or illegal controlled substances.
- B. Supervisory employees shall be responsible for the consistent enforcement of this policy. To that end, a supervisor must:
  - (1) Insure that all information handled by the supervisor regarding alcohol and drug tests, investigations or infractions is discreetly handled, with information not being communicated beyond those who have a need to know. Failure to properly handle alcohol and drug information may result in disciplinary action up to and including dismissal.
  - (2) Require that an employee submit to an alcohol/drug test, when there is reasonable suspicion that the employee is under the influence of alcohol and/or an illegal controlled substance. "Reasonable suspicion" is a belief based on objective facts which would reasonably lead an observer to further investigation. Conditions which may constitute reasonable suspicion include, but are not limited to, any of the following, alone or in combination:
    - (a) Slurred speech.



- (b) Bloodshot eyes.
  - (c) Odor of alcohol.
  - (d) Inability to walk a straight line/staggering gait.
  - (e) An accident while on duty.
  - (f) Physical or verbal altercation.
  - (g) Bizarre or erratic behavior.
  - (h) Extreme lethargy or excitation.
  - (i) Dramatic mood swings.
  - (j) Information obtained from a reliable person with personal knowledge.
  - (k) Observation of the ingestion of alcohol and/or an illegal controlled substance during working hours.
- (3) Document in writing the facts constituting reasonable suspicion that the employee in question is under the influence of alcohol and/or an illegal controlled substance. An Alcohol/Drug Test Reasonable Suspicion (ADRS) form may be used for this purpose.
- (4) Inform, with appropriate witness (another supervisor or management personnel), any employee being required to submit to an alcohol/drug test that failure to submit to an alcohol/drug test shall be considered insubordination and shall be grounds for disciplinary action of not less than a suspension without pay, up to and including dismissal.
- (5) Testing.
- (a) Accompany the employee in question to the appropriate testing facility. An employee may be tested for both alcohol and/or illegal controlled substances in connection with the same incident.
  - (b) The supervisor shall remain with the employee until the test administration is completed and upon completion of the test, may place the employee on leave without pay for the remainder of the employer's workday.
  - (c) In the event that the employee tests negative and there were no work infractions associated with the incident leading to the test, the employee shall be compensated for the leave-without-pay period.
- (6) Arrange for the tested employee to be escorted safely home.
- (7) If an employee is exhibiting violent or threatening behavior, the supervisor should not attempt to transport the employee for testing, but should notify the Nassau County

Sheriff's Office of the disturbance.

- (8) Notify the Nassau County Sheriff's Department when there is a reasonable suspicion to believe that an employee may be selling, purchasing, trafficking, manufacturing, or in possession of an illegal controlled substance while on duty or at any time while on Town property or in a Town vehicle.

**§ 40-23. Communication of policy.**

- A. Distribution of copies.
  - (1) All Town employees will receive a copy of this policy.
  - (2) The Mayor shall be responsible for communicating this policy to newly hired regular employees and employees as a part of the orientation process. The Town will provide a copy of the policy to each new regular employee.
- B. The Mayor shall display this policy and any related informational material on all employee bulletin boards.
- C. The Mayor shall conduct an ongoing drug-free awareness program to inform employees about the Town's alcohol and drug policy; the dangers of drug alcohol abuse; penalties for the use, sale, possession or manufacture of drugs/alcohol at work; the availability of drug/alcohol counseling.

**§ 40-24. Testing, notification and consequences of positive test results.**

- A. The alcohol test will test for the blood alcohol level. A blood alcohol level of .08 or above is considered a positive test result for an on-duty employee. In some cases, however, taking into consideration the employee's job and on-the-job behavior, a lower level of alcohol may be deemed unacceptable. [Amended 7-6-2009 by Ord. No. 2009-07]
- B. Drug test.
  - (1) The drug test will test for the presence of various controlled substances at or above the minimum levels for a positive test established by the State of Florida pursuant to the Florida Drug-Free Workplace Act (as of March 2010, codified at F.S. § 112.0455 with minimum levels promulgated by the Agency for Health Care Administration published in Chapter 59A-24.006, Florida Administrative Code), including, but not limited to: [Amended 4-5-2010 by Ord. No. 2010-06]
    - (a) Amphetamines.
    - (b) Cocaine or cocaine metabolite.
    - (c) Cannabis or cannabinoids.
    - (d) Opiates.

- (e) Phencyclidine.
  - (f) Barbiturates.
  - (g) Benzodiazepines.
  - (h) Methaqualone.
  - (i) Methadone.
  - (j) Propoxyphene.
- (2) Evidence of any illegal controlled substance at or above the minimum State HRS levels is considered a positive test result.

C. Preemployment testing.

- (1) Applicants. The Mayor, upon identifying the top applicant, will call the applicant and schedule a qualified job offer interview. The applicant should be instructed that his interview may take up to two hours. This interview will include a qualified offer of employment and the drug test. A qualified offer of employment is notice to an applicant that he/she is the top candidate for a vacancy and that upon successful completion of a drug test, the employment offer will be confirmed.
- (2) The cost of the drug test will be paid by the Town.
- (3) Drug test results will be submitted by the testing facility to the Mayor.
- (4) Applicants receiving positive test results, confirmed by a second test using a different methodology, will not be eligible for employment with the Town for six months following the date the positive test was administered.
- (5) The Mayor shall notify the applicant in writing of his disqualification due to failure to pass the drug test.

D. During employment testing.

- (1) The authorization and consent for alcohol/drug test form must be completed by the supervisor and signed by the employee prior to test administration. Sections A and B of the alcohol/drug test reasonable suspicion form must be completed as soon as possible.
- (2) Employees suspected of being under the influence of alcohol are to be taken to the Nassau County Sheriff's Office for testing.
- (3) Employees suspected of being under the influence of an illegal controlled substance are to be taken to a testing facility approved by the Town.
- (4) An employee may be tested for both alcohol and drug use.

- (5) An employee who has not successfully completed an initial probationary period and who has a confirmed positive test result for alcohol and/or drugs, shall be dismissed.
- (6) An employee who has obtained permanent status in any position, and who has a confirmed positive test result for alcohol and/or drugs, shall be subject to disciplinary action up to and including dismissal. Conditions which may warrant consideration being given to the retention of a permanent employee with positive test results may include, but not be limited to, nature of job, length of service, quality of job performance, professionally documented degree of alcohol/drug dependency, cooperation with treatment program.
- (7) Each employee shall be required to undergo an annual drug/alcohol test at no cost to the employee. The dates of the annual physical will be determined by the Town and will be made known to the employee at least 48 hours in advance. An employee who refuses or fails to take such a test as directed will be terminated. An employee who tests positive shall be subject to the disciplinary action set forth in this policy.

**§ 40-25. Refusal to cooperate with alcohol/drug test.**

- A. An applicant's tampering with the drug test or failing to submit to the required preemployment drug test shall be considered as a request for withdrawal from consideration for the position for which he has applied.
- B. An employee's tampering with the drug test or failing to submit to an alcohol/drug test shall be considered insubordination and shall be grounds for disciplinary action of not less than a suspension without pay, up to and including dismissal.

**§ 40-26. Consequences of violation of policy.**

- A. An employee found to be in violation of any provision of this policy shall be subject to disciplinary action up to and including dismissal.
- B. Conditions which may warrant the retention of said employee may include, but not be limited to, nature of job, length of service, quality of job performance, and nature of offense.

**§ 40-27. Confidentiality.**

- A. The hard copy of a preemployment drug test shall not be included in an applicant's file, but shall be retained by the Town Clerk in a separate medical file for a period of one year.
- B. The hard copy of a during-employment alcohol/drug test and any ancillary medical materials shall not be included in an employee's personnel file, but shall be retained by the Town Clerk in a separate medical file. Reference to alcohol/drug test results may be made if disciplinary action is taken against the employee. Any conditions of employment which may be established as a result of the drug test will become part of the employee's personnel

file.

- C. Test results and ancillary material may be disclosed to any person upon the written consent of the employee or applicant.
- D. Disclosures, without applicant or employee consent, may occur when:
  - (1) The information is compelled by law, or by judicial or administrative process;
  - (2) The information has been placed at issue in a formal dispute between the Town and an employee or applicant;
  - (3) The information is needed by medical personnel for the diagnosis or treatment of a patient who is unable to authorize disclosure.

**§ 40-28. Notification of grantor and/or contracting agencies.**

In compliance with the Drug-Free Workplace Act of 1988, the Mayor will inform the appropriate grantor and/or contracting agency of the conviction of any employee involved in a workplace drug crime within 10 days of learning of the conviction.

**§ 40-29. Right to appeal.**

An applicant or employee who feels he has not been treated fairly in regards to this policy may file a complaint pursuant to the Town Council of the Town of Callahan, Florida.