

- 4) Unwelcome flirtation, requests for sexual favors, sexual advances or propositions, requests for “dates”, and other verbal or physical conduct of a sexual nature;
- 5) Display of sexually suggestive or sexually explicit pictures, greeting cards, books, drawings, photographs, magazines, websites, cartoons or objects;
- 6) Circulation of e-mails, jokes, or other materials that reasonably could be viewed as offensive by any employee;
- 7) Implication, by word or action, that an employee must tolerate or submit to sexual advances or offensive, inappropriate, or abusive conduct.

Employees who believe they have been victims of harassment or who may have witnessed an act of harassment should report the incident immediately to the City Manager or the City Attorney. The City Manager will promptly investigate all complaints through whatever means necessary. An employee may be suspended, with or without pay, pending the results of the investigation. Failure to cooperate fully with an internal investigation may result in disciplinary action up to and including termination.

The City will maintain confidentiality of the complaint, the investigation, and the result to the extent possible, and will instruct everyone involved in the investigation to do so as well. If the City concludes that a policy violation or illegal activity has occurred, it will take immediate and appropriate corrective action.

This policy prohibits retaliation against any person who brings an accusation of harassment or who assists with a harassment investigation or its resolution. However, any employee found to have knowingly and deliberately reported an accusation of harassment in bad faith will be subject to disciplinary action up to and including termination.

SECTION 40. Violence in the Workplace.

The City will not tolerate any acts of violence to persons or City property. All acts of violence are treated seriously. Each act of violence will be dealt with promptly and appropriately utilizing administrative, managerial, legal and disciplinary actions.

Any employee determined to be responsible for threats of or actual violence or other violent conduct in the workplace that is in violation of these guidelines shall be subject to prompt disciplinary action, including termination of employment.

SECTION 41. Employee Conduct.

It shall be the duty of all City employees to maintain high standards of cooperation, competency, efficiency, and integrity in their work with the City. If an employee's conduct falls below standard, he or she may be subject to disciplinary action, including termination of employment.

Some general areas for which an employee may be disciplined include, but are not limited to, the following:

- 1) Reporting to work or otherwise on duty or off duty if attending an official city meeting or function while under the influence of alcohol, intoxicants, or non-prescribed or illegal drugs,

narcotics, or “controlled substances,” as such terms or phrase are/is understood and referred to in the statutes of the State of Mississippi (e.g., Miss. Code Ann. § 41-29-113 through § 41-29-121 (Rev. 2001), the use of alcohol and/or other intoxicants while at work and/or on duty and/or off duty if attending an official city meeting or function, and/or a positive drug test result as obtained or received pursuant to the City’s policy on drug testing. A positive drug test is defined as any test showing a detectable amount of a prohibited substance in the employee’s system.

- 2) Use of narcotics or non-prescribed illegal drugs or “controlled substances,” as understood and referred to in the statutes of the State of Mississippi (e.g., Miss. Code Ann. § 41-29-113 through § 41-29-121 (Rev. 2001) while either on or off duty.
- 3) Failure to follow or adhere to the lawful or reasonable order, regulation, instruction, or directive of one’s supervisor, including, without limitation, his or her Department Director, and the City Manager.
- 4) Refusal to adhere to or failure to comply with the City’s policy on drug testing.
- 5) Absence without leave, including, without limitation, the failure to report for employment, and/or being absent from work without permission or failing to report such absence to the appropriate supervisor or Department Director.
- 6) Being habitually or excessively absent or tardy for any reason.
- 7) Failure to perform assigned work or required duties in an efficient, effective, competent, and/or satisfactory manner according to reasonable City standards.
- 8) Incompetence or inefficiency in the performance of duties of the position to which he or she is employed.
- 9) Being wasteful of or misusing City material, property, equipment, or resources, and/or work time.
- 10) Conviction of or plea of *nolo contendere* to a felony or misdemeanor. This would include any charge(s) that may adversely affect conditions or requirements of your job description or Civil Service minimum requirements for employment with the City of Gautier.
- 11) Making or disseminating slanderous remarks or representations involving fellow employees or supervisors.
- 12) Removal and/or conversion of City money, merchandise, or property, including property in custody of the City without permission.
- 13) Dishonesty, including, without limitation, intentionally giving false information, submitting false work records, making false statements when applying for employment, and falsifying any information during the application and/or pre-employment process (es).

- 14) Divulging, misusing or removing any employee lists, records, designs, drawings or confidential information of any kind without proper authorization and/or permission of the City Manager or Department Director.
- 15) Making excessive or unauthorized charges to the City by Fuel man (gas) card, purchase order, or other means of obligating the City to improper or unlawful debt.
- 16) Falsification of time and attendance records for payroll or submitting or punching in a time card for someone else.
- 17) Abuse of sick leave privileges by reporting sick when not sick or obtaining sick leave pay falsely or under false pretenses.
- 18) Use of profanity or abusive language or wantonly offensive conduct or language toward a fellow employee or member of the public while in the course of employment with the City.
- 19) Engaging in political activities prohibited by this employee handbook or otherwise in violation of any federal, state, and/or local law, ordinance, or regulation.
- 20) Engaging in inter- and intra-office relationship(s) that interfere(s) with workplace productivity.
- 21) Making acts or threats of violence, fighting, or stalking or otherwise acting in a threatening manner toward another employee, a supervisor, an elected official, and/or a member of the public while in the course of his or her duties with the City.
- 22) Unauthorized possession or use of firearms, dangerous weapons, or explosives at the work site or in the course of his or her duties with the City.
- 23) Conduct unbecoming an employee of the City either while on or off duty.
- 24) An attempt to induce any employee of the City to commit an illegal act(s) or an act(s) in violation of any lawful or reasonable departmental regulation, policy, and/or procedure.
- 25) Violation of internal rules, regulations, policies, and/or regulations established by the City Departments and/or Department Directors, provided they are not in conflict with the policies, provisions, procedures, and regulations of this employee handbook or any amendment thereof.

The above referenced and non-exclusive list of general areas for which an employee may be disciplined or terminated fall within the purview of those acts, omissions, and/or conduct which give rise to disciplinary action under Miss. Code Ann. § 21-31-21 (Rev. 2001) and amount to one (1) or more of the following: incompetence, inefficiency, inattention of duty, dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public or a fellow employee, and/or acts of omission or commission tending to injure the public service.

Failure to discipline an employee for one (1) or more of the foregoing or other grounds for discipline does not limit the City from disciplining the same employee for the same ground(s) for discipline on other occasions or other employees for the same ground(s) for discipline.

SECTION 42. Disciplinary Action.

Without limitation, discipline involving less than termination may take the form of a verbal warning or reprimand, a written warning or reprimand, a performance appraisal indicating substandard performance in one or more areas, probation, suspension without pay, and/or demotion or reduction in rank. Verbal warnings or reprimands become a part of an employee's official personnel file and remain in the personnel file for the duration of his or her employment with the City of Gautier.

Disciplinary actions involving suspension without pay, demotion or reduction in rank, and/or termination of employment require prior notification to and approval by the City Manager.

Civil Service employees (i.e., regular full-time employees) may be disciplined for any of the reasons or bases set out in the policies, procedures, provisions, and/or regulations herein or for any other reason or basis made in good faith for just cause.

SECTION 43. Fitness for Duty.

If there are documented reasons to question an employee's fitness for duty, i.e., ability to perform job duties and/or to meet the expectations of conduct described herein or in other City policies or governing documents, the City reserves the right to refer the employee to Singing River Services for an "EAP" evaluation. This includes situations where the employee is exhibiting bizarre, inexplicable, or unacceptable behavior. A department director may recommend an employee for these contract services to the City Manager on the basis of his or her ability to function on the job.

The intent is to use the findings of the "EAP" to assist the department director and division supervisor in a plan to improve the employee's productivity. After the evaluation, the employee is required to sign a medical records release or obtain and furnish an evaluation from an appropriate professional, including a urinalysis as covered by the City drug policy. When the City requires such an evaluation, any costs outside of the "EAP" service contract, will be the City's responsibility.

SECTION 44. Whistle blowing.

The City strives to conduct its business with the utmost integrity and in strict accordance with all applicable federal, state and local law. Accordingly, employees are required to bring to the attention of the City any improper actions of City employees, including conduct prohibited by law and/or any request of an employee to engage in conduct prohibited by law. The City will not retaliate against any employee who makes such a disclosure in good faith.

SECTION 45. Resignation.

When an employee decides to resign, at least two (2) week notice is requested. The notice is to be a written statement to the employee's supervisor stating the effective date and reason for resignation.

Once a resignation letter has been received, the City is under no obligation to retain the employee resigning if in fact the employee retracts the resignation letter. The decision to retain said employee will be at the sole discretion of the City Manager.

SECTION 46. Job Abandonment/Voluntary Termination.

Any employee who is absent from work for three (3) consecutive workdays without proper notification and authorization may be considered to have voluntarily terminated his or her position.

SECTION 47. Drug Testing.

The City of Gautier, at a minimum, will comply with the requirements of the Drug-Free Workplace Act of 1988 and MS Code Annotated, Sections 71-7-1 thru 71-1-33.

Any employee determined to be in violation of this policy is subject to disciplinary action which may include termination, even for the first offense.

The City strictly prohibits the manufacture, distribution, dispensing, possession, sale, purchase, or use of alcohol or a controlled substance, without a medical prescription, while on the job, or on company property. Employees reporting to work, or working under the influence of alcohol or a controlled substance without a medical prescription is prohibited. Furthermore, the City of Gautier prohibits the presence of any detectable amount of prohibited substances in the employee's system while at work, while on City premises or in a City vehicle, or while conducting City business. "Prohibited substances" will include illegal drugs, alcohol, or prescription drugs not taken in accordance with a prescription given to the employee.

The City has a separate policy for drug testing and requires all employees to adhere to and abide by this policy. Employees should contact the Personnel Generalist to obtain a copy of the official drug policy in its entirety. Employees who violate this Policy are subject to appropriate disciplinary action including termination.

SECTION 48. City Owned/Leased Cellular Telephones.

This policy outlines the use of city-owned cell phones, the use of privately owned cell phones and the safe use of cell phones by employees while driving.

Personal Use of City-Provided Cellular Phones: Where job or business needs demand immediate access to an employee, the City may issue a City-owned and serviced cell phone to an employee for work-related communications. City owned cellular telephones are for official business only. Occasional brief personal use is allowable but should be avoided. Phone invoices may be audited by the user Department to ensure proper use of city-provided cellular phones.

Cellular phones shall remain the sole property of the City and shall be subject to inspection or monitoring (including related records) at any time. Employees in possession of City equipment such as cellular phones are expected to protect the equipment from loss, damage, or theft. Upon resignation or termination of employment, or at any time upon request, the employee may be asked to produce the phone for return or inspection. Employees unable to present the phone in good working condition within the time period requested (for example, 24 hours) may be expected to bear the cost of a replacement.

Employees who separate from employment with outstanding debts for equipment loss or unauthorized charges will be considered to have left employment on unsatisfactory terms and may be subject to legal action for recovery of the loss.

SECTION 48.1 Use of Personal Owned Cell Phones.

It is City policy that use of personal cellular phones (including text messaging) shall be limited during the work day and City cellular phones shall be utilized for business purposes only and in a safe manner.

Personal Cellular Phones: During paid work time, employees are expected to exercise the same discretion in using personal cellular phones as is expected for the use of any City phones. Employees are expected to make personal calls on non-work time when possible and to ensure that friends and family members are aware of the City's policy. Flexibility will be provided in circumstances demanding immediate personal phone use, but this immediate need should be communicated to an employee's supervisor.

SECTION 48.2 Safe Use of Cell Phones.

Safety Issues for Cellular Phone Use: Employees whose job responsibilities include regular or occasional driving are encouraged to refrain from using a cellular phone while driving. Safety must come before all other concerns. Regardless of the circumstances, including slow or stopped traffic, employees are strongly encouraged to pull off to a reasonably safe location and safely stop the vehicle before placing or accepting a call. If acceptance of a call is unavoidable and pulling over is not an option, employees are required to use hands-free options and are expected to keep the call short, refrain from discussion of complicated or emotional issues, and keep their eyes on the road. Special care should be taken in situations where there is traffic, inclement weather or the employee is driving in an unfamiliar area.

In situations where a City cell phone has been issued and the employee's job responsibilities include regular driving and accepting of business calls, hands-free equipment will be provided to facilitate the provisions of this policy.

With the exception of extraordinary circumstances, operators of authorized emergency vehicles are to comply with the hands-free requirement while driving. Employees whose job responsibilities do not specifically include driving as an essential function, but who are issued a cell phone for business use, are also expected to abide by the provisions above. Under no circumstances are employees allowed to place themselves at risk to fulfill business needs.

Text messaging, reading emails, and writing emails while driving is not allowable under any circumstance.

Employees who are charged with traffic violations resulting from the use of a cellular phone while driving on duty may be subject to disciplinary action and personal liability resulting from such traffic violations.

Violations of this policy will be subject to discipline.

SECTION 49. City Computers and Electronic Communications.

Certain employees and officials within the City of Gautier may be provided or authorized to use City-owned or leased computers and electronic communications systems, including electronic mail (e-mail) and internet services.

Such provision or authorization is in no way to be considered or construed to be a benefit or guarantee and no employee has a claim or entitlement to the provision or use of such equipment or services.

SECTION 49.1 Use of City Computers/Microcomputers and Computing Systems.

Employees and officials shall be responsible for using the City-owned and leased computer systems for job-related purposes only. Employees and officials may use only the computing resources they are authorized to use and only for the job-related purposes specified. The use of computers and the City's network(s) are provided to employees as tools for job-related use. Misuse of computers and the network(s) shall be subject to disciplinary action, including termination of employment.

All software, programs, applications, templates, data and data files residing on City microcomputer systems or storage media or developed on City systems are property of the City of Gautier and shall not be removed from the workplace without proper authorization.

The City, therefore, may access, copy, change, alter, modify, destroy, delete or erase this property at any time, with or without notice.

The City does not own computer software but licenses the right to use it. Therefore, software may only be reproduced by authorized City employees or officials in accordance with the terms of the software licensing agreements. Unauthorized copying, duplication, redistributing, and/or republishing of copyrighted or proprietary material (information, data, software packages, etc.) is a direct infringement of the federal copyright law. Illegal copying of software shall be subject to disciplinary action. Computer programs may not be rented, leased, or loaned for direct or indirect commercial advantage. Computer programs may not be used or transferred to another site other than as specified by the licensing agreement.

SECTION 49.2. Electronic Mail (E-Mail).

The electronic mail system hardware and software is the property of the City. Additionally, all messages composed, sent, or received on the electronic mail system are, and remain the property of the City and as such can be viewed, retrieved and monitored by the City. Electronic mail (e-mail) is not the private property of the employee and employees and officials have no expectation of privacy in such mail or in any information or data contained in or attached to such mail. The use of the City's computers and the electronic mail system is reserved for the conduct of business of the City.

SECTION 49.3. Internet/Intranet Access.

Access to the internet is provided to certain City employees to aid or assist in the conduct of City business. Internet and/or intranet communications shall be for business related purposes. However, the City expects that employees will devote their time to City business while on duty and use of the Internet/Intranet for other purposes should be strictly limited and of very short duration. The City has the right to monitor internet and intranet use to assure such use.

Employees who violate this policy by viewing, downloading or sharing sexually suggestive or sexually explicit pictures, greeting cards, books, drawings, photographs, websites, cartoons or objects or websites for gambling; will be subject to disciplinary action, leading up to and including termination.