

CITY OF HAMILTON, OHIO

No. 342

ADMINISTRATIVE DIRECTIVE

Effective Date: 4-8-16

Approved by: Joshua A. Smith,
City Manager

SUBJECT: SECONDARY EMPLOYMENT POLICY

REFERENCES: Ohio Revised Code, Chapter 102; Ohio Revised Code, Sections 2921.42 & 2921.43; Ohio Ethics Commission Advisory Opinion Number 96-004.

PURPOSE: To provide a procedure governing Secondary Employment for City employees. This policy is an attempt to avoid any conflict with proper performance of assigned duties and responsibilities in situations when a City employee wishes to accept employment, become self-employed or perform volunteer work in addition to the employee's City of Hamilton's position.

1. Definitions

- a. Secondary Employment
 - i. Secondary employment is defined as an occupation, vocation, profession, trade, or business other than City employment for which remuneration is received and which includes any work engaged in for profit including self-employment.
- b. Casual or incidental jobs or employment
 - i. Casual or incidental jobs or employment shall be considered as employment situations that may be available to an employee on short notice, for less than three (3) days duration and not of a recurring nature.

2. Policy

- a. It is the policy of the City of Hamilton to permit employees to engage in Secondary Employment when it does not create a conflict of interest or constitute an incompatible activity. Each employee is required to disclose all Secondary Employment. Each disclosure shall be treated as confidential and will be reviewed and approved by the respective Department Head to ensure that the Secondary Employment is compatible with the employee's job and does not impair the employee's ability to perform his or her job for the City in an acceptable manner. If granted, the authorization will be effective until January 31 of the year following the year it is granted, and permission must be requested annually thereafter.

3. Applicability

- a. This policy applies to all City of Hamilton employees **excluding** Elected Officials, both of the City and Elected Officials of other public agencies who work for the City of Hamilton.

4. Procedure

- a. Prior to accepting Secondary Employment, as defined above, an employee must complete the **Secondary Employment Form** and submit it to their Department Director. Forms are available on the Department of Human Resources web page. Each request will be treated as confidential to protect the rights of the employee.
- b. Annually, all employees are required to complete or update the notification of **Secondary Employment Form** and submit it to the Department Director by January 31 of that year.
- c. Grandfathered provisions do not exist for this policy. **Upon adoption by the City Manager, all employees will have one (1) month to comply with this policy.** Employees may continue to

- engage in secondary employment as long as they have completed the necessary forms and are awaiting a decision.
- d. The Department Director shall review the notification form and a determination should be made within three (3) working days. If it is determined that the situation is unusual or complicated, an additional review time may be needed; as a general guideline this additional time shall not exceed ten (10) days. The Department Director should determine if:
 - i. A conflict of interest or an incompatible activity exists;
 - ii. The Secondary Employment would have an adverse impact on the department;
 - iii. The Secondary Employment impairs the employee's ability to perform his or her job for the City in an acceptable manner; or
 - iv. A conflict is created when a current City employee undertakes a second job with the City; or
 - e. If no conflict is found, the employee will be advised that the secondary employment can be commenced or continued by receiving a copy of the signed secondary employment form.
 - f. If a determination is made that a conflict does exist, the Department Director will contact the employee, review the form with the employee and discuss the exact nature of the Secondary Employment in detail. The Department Director should advise the employee that employment with the City may be jeopardized if the Secondary Employment is undertaken or continued. Notification should be in writing and state the specific reasons of the denial.
 - g. If a conflict is found and it cannot be worked out between the employee and the Department Head, the employee may, within five (5) days, request that the Secondary Employment denial be reviewed by the Director of Human Resources. The Director of Human Resources shall make a final determination within five (5) days from the date submitted.
 - h. Casual or incidental jobs or employment will require only oral or phone approval of the Department Director and/or his or her designee prior to beginning.
 - i. If secondary or self-employment is approved, each employee should ensure that appropriate evidence is available that the employer (or self-employment) meets all City, County and State (and Federal, if applicable) licenses, permits, and insurance requirements, including Workers' Compensation.
 - j. A copy of the form with the appropriate signatures of the Department Director will be returned to the employee. The original form will be kept in the employee's personnel file.

5. Prohibited Outside Employment Conditions

- a. No officer or employee shall engage in outside employment or self-employment that is incompatible with the proper discharge of his or her official duties. Specifically, the outside employment or self-employment must not:
 - i. Bring disfavor or disrespect upon the employee or officer, the department or the City, in accordance with the judgment of the department Director;
 - ii. Impede, or adversely affect the performance of, the employee or officer;
 - iii. Make use of any City resources, including but not limited to vehicles, telephones, computers, office space, equipment, or supplies;
 - iv. Occur during the time the City officer or employee is being paid for or is conducting City work.

6. No Partisan Position Held

- a. Consistent with and except as otherwise provided in the City Charter, no City officer or employee shall hold any other office or position if the office or position is partisan.

7. Leave Benefits

- a. A City officer or employee shall not perform outside work while receiving sick leave or injury benefits from the City. An employee who is injured, disabled, or becomes ill as a result of his or her outside employment or self-employment shall not be given paid sick leave or injury benefits by the City.

8. Lawsuits

- a. The City will not defend personnel in lawsuits brought against them as a result of actions taken or not taken during secondary employment. Therefore, it is recommended that City employees have an understanding with the secondary employer that they be covered by that employer's general comprehensive liability insurance, if applicable.

9. Penalties

- a. Failure to comply with this policy by any City officer or employee shall be considered grounds for dismissal, or other disciplinary action, and for recovery of wages or benefits paid by the City in violation of this policy.

10. Exemptions

- a. Police Division employees engaged in police related secondary employment is exempt.