



COMMITTEE OF THE WHOLE
AUGUST 27, 2012
5:30 PM

Opening of Meeting

Nondenominational Invocation

Roll Call

Approval/Amendments to Agenda

1. Discussion of proposed changes to the Personnel Policy (**page 2**)
2. Discussion of off-site City Council meetings – Councilman Pitt
3. Discussion of motorized wheelchairs on public streets – Councilman Pitt
4. Closed Session - Under NCGS 143-318.11 (a)(6)Personnel
5. Adjourn – Until Monday, September 10, 2012 at 5:30pm in the Council Chambers at the Municipal Building.

MEMORANDUM

TO: Mayor & City Council

FROM: Josh Kay, City Manager 
Susan Hodges, Human Resources Director

DATE: August 21, 2012

RE: Proposed Updates/Changes to Personnel Manual

Background

City Council was presented with a draft revision of the City's Personnel Manual at its June 25, 2012 Committee of the Whole meeting. At this meeting, City Council brought up a few areas to be discussed in more detail. Additionally, the revisions were presented to our employees where additional questions or concerns were raised.

The information below represents the areas that were highlighted by both sets of groups. With this information is provided some further information and, where appropriate, recommendations are made.

If I have omitted any areas that you would like to further discuss, please let me know as soon as possible. It is my assumption that all other areas are agreeable and do not need additional discussion.

Sections that need more discussion

1. Article III. Section 5 – Performance Pay (page 9)

- a. A recommendation to include possible merit increases for part-time employees. This benefit would only be available for those part-time employees that are in a regularly scheduled position and only implemented after an annual appraisal.
- b. Concerns were raised from employees about the loss of possibility to receive job maturity and merit increases within the same fiscal year.

2. Article III. Section 11 – Overtime Pay Provisions (page 12)

- a. There is a concern among the employees and supervisors that eliminating counting holidays as work time for the purposes of determining overtime pay would diminish workplace morale and would impact workplace performance.

3. Article III. Section 17 – Longevity Pay (page 15)

- a. City Council requested discussion to change the wording from “may” back to “shall” in order to guarantee longevity pay.
- b. Some Council members discussed the possibility of paying longevity pay after a set number of years (i.e. “Employees shall receive longevity pay beginning at their fifth anniversary with the City of Washington.”)

4. **Article IV. Section 5 – Probationary Period (page 18)**
 - a. Concerns were raised that promoted employees would not be eligible for a probationary raise.

5. **Article V. Section 7 – Outside Employment (page 21-22)**
 - a. There is a need to further define “outside employment” – i.e. is owning rental houses considered outside employment; is “clerical” work permitted for “manual labor” employees that are limited due to a worker’s compensation claim, etc...
 - b. Further legal review is needed to determine how this section is written and/or enforceable.

6. **Article V. Section 13 – Use of City-Owned Vehicles (page 25)**
 - a. Council members recommended using a physical address to measure the 20-road miles – either use City Hall or Intersection of Market & 5th Street (where all City addresses originate)
 - b. It was suggested by employees to increase the distance from 20 miles to 30 miles to increase potential applicant pool for positions (reference to City Code and Article V. Section 10)

7. **Article VI. Section 2 – Vacation Leave (page 32)**
 - a. It is recommended to eliminate the requirement that all employees take at least 40 hours of accrued vacation leave per year (Article VI. Section 2(c)(5)).



CITY OF WASHINGTON

Personnel Policy

**Adopted by
Washington City Council**

2012

Draft (6/20/12)

TABLE OF CONTENTS

ARTICLE I.	ORGANIZATION OF THE PERSONNEL SYSTEM	
Section 1.	Purpose of the Policy.....	1
Section 2.	At Will Employment	1
Section 3.	Merit Principle.....	1
Section 4.	Responsibilities of the City Council.....	1
Section 5.	Responsibilities of the City Manager.....	1
Section 6.	Responsibilities of the Human Resources Director	2
Section 7.	Application of Policy, Plan, Rules and Regulations.....	3
Section 8.	Responsibilities of Department Heads	3
Section 9.	Departmental Rules and Regulations	3
Section 10.	Definitions	3
ARTICLE II.	THE POSITION CLASSIFICATION PLAN	
Section 1.	Purpose.....	6
Section 2.	Composition of the Position Classification Plan	6
Section 3.	Use of the Position Classification Plan	6
Section 4.	Administration of the Position Classification Plan	6
Section 5.	Authorization of New Positions and the Position Classification Plan	7
Section 6.	Request for Reclassification	7
ARTICLE III.	THE PAY PLAN	
Section 1.	Administration and Maintenance of the Pay Plan.....	8
Section 2.	Starting Salaries	8
Section 3.	Trainee Salaries	8
Section 4.	Probationary Pay Increases.....	8
Section 5.	Performance Pay.....	9
Section 6.	Performance Pay Bonus.....	9
Section 7.	Effect of Promotions, Demotions, and Lateral Transfers On Salary	10
Section 8.	Reclassifications and Salary Range Revisions	10
Section 9.	Transition to a New Pay Plan	11
Section 10.	Pay for Part-time and Temporary Work	12
Section 11.	Overtime Pay Provisions	12
Section 12.	Policy on Exempt Employee Pay.....	13
Section 13.	Stand-By Pay	14
Section 14.	Call-Back Pay.....	14
Section 15.	Holiday Premium Pay	14
Section 16.	Pay for Acting in a Higher Level Classification.....	15
Section 17.	Longevity Pay.....	15
Section 18.	Payroll Deductions	15
Section 19.	Payroll Procedures	15
Section 20.	Direct Deposit.....	16
ARTICLE IV.	RECRUITMENT AND SELECTION	
Section 1.	Equal Employment Opportunity Policy.....	17
Section 2.	Implementation of Equal Employment Opportunity Policy.....	17
Section 3.	Recruitment and Application.....	17

Section 4.	Selection and Appointment.....	18
Section 5.	Probationary Period.....	18
Section 6.	Trainee Designations and Provisions	19
Section 7.	Promotion.....	19
Section 8.	Demotion.....	19
Section 9.	Lateral Transfer.....	19

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1.	Work Schedule.....	20
Section 2.	Safety.....	20
Section 3.	Gifts and Favors.....	20
Section 4.	Political Activity.....	20
Section 5.	Soliciting Funds.....	21
Section 6.	Performance Evaluation	21
Section 7.	Outside Employment	21
Section 8.	Limitation of Employment of Relatives	22
Section 9.	No-Harassment/No-Discrimination Policy	23
Section 10.	Residency Requirement	24
Section 11.	Travel Time and Expenses	24
Section 12.	Use of City-Owned Equipment or Supplies.....	25
Section 13.	Use of City-Owned Vehicles.....	25
Section 14.	City Provided Cellular Telephone / Electronic Mobile Devices .	26
Section 15.	Internet, E-Mail, Telephone and Other Communications Systems	26
Section 16.	Prohibition of Weapons Policy	27
Section 17.	Workplace Inspections and Privacy Notice	27
Section 18.	Loss or Damage of Personal Property in Performance of Duty	28
Section 19.	Surrender of Property.....	28

ARTICLE VI. HOLIDAYS AND LEAVE

Section 1.	Holidays.....	29
Section 2.	Vacation Leave.....	30
Section 3.	Sick Leave.....	33
Section 4.	Shared Leave.....	35
Section 5.	Family and Medical Leaves of Absence.....	37
Section 6.	Military Family and Medical Leave Act Policy	41
Section 7.	Leave Without Pay	44
Section 8.	Adverse Weather / Hazardous Conditions	44
Section 9.	Parental School Leave	45
Section 10.	Workers' Compensation Leave.....	45
Section 11.	Military Leave and Reinstatement.....	46
Section 12.	Civil Leave.....	46
Section 13.	Educational Leave.....	47

ARTICLE VII. EMPLOYEE BENEFITS

Section 1.	Insurance Benefits.....	48
Section 2.	Social Security.....	48
Section 3.	Retirement System Membership.....	48
Section 4.	NCLGERS: Death Benefit.....	48
Section 5.	Retiree Insurance Benefits	49
Section 6.	Supplemental Retirement Benefits: 401(k) and Deferred Compensation 457	49

Section 7.	Law Enforcement Special Separation Allowance.....	49
Section 8.	Workers' Compensation	50
Section 9.	Retiree Separation Benefit	51
Section 10.	Unemployment Compensation	51
Section 11.	Tuition Assistance Program.....	51
Section 12.	Wellness Program	51
Section 13.	Employee Assistance Program.....	51
Section 14.	Car Allowance / Travel Bonus	52

ARTICLE VIII. SEPARATION AND RE-EMPLOYMENT

Section 1.	Types of Separation	53
Section 2.	Reduction in Force	54
Section 3.	Re-Employment.....	56

ARTICLE IX. DISCIPLINARY ACTION

Section 1.	Disciplinary Action for Unsatisfactory Job Performance.....	57
Section 2.	Unsatisfactory Job Performance Defined.....	57
Section 3.	Procedures for Addressing Unsatisfactory Job Performance ...	57
Section 4.	Disciplinary Action for Detrimental Personal Conduct	58
Section 5.	Detrimental Personal Conduct Defined	58
Section 6.	Pre-Dismissal Conference	59
Section 7.	Non-Disciplinary Suspension.....	60
Section 8.	Exempt Employee Suspension.....	60

ARTICLE X. GRIEVANCE PROCEDURES

Section 1.	Policy	61
Section 2.	Grievance Defined.....	61
Section 3.	Purposes of the Grievance Procedure	61
Section 4.	Grievance Procedure.....	62
Section 5.	Role of the Human Resources Director	63
Section 6.	Grievance and Adverse Action Appeal Procedure for Discrimination and/or Harassment.....	63

ARTICLE XI. PERSONNEL RECORDS

Section 1.	Public Information.....	64
Section 2.	Access to Confidential Records.....	64
Section 3.	Personnel Actions	66
Section 4.	Records of Former Employees	66
Section 5.	Remedies of Employees Objecting to Material in File	66
Section 6.	Penalties for Permitting Access to Confidential Records	66
Section 7.	Examining and/or Copying Confidential Material Without Authorization	66
Section 8.	Destruction of Records Regulated	66

ARTICLE I. GENERAL PROVISIONS

I. Section 1. Purpose of the Policy

It is the purpose of this policy and the rules and regulations set forth to establish a fair and uniform system of personnel administration for all employees of the City under the supervision of the City Manager. This policy is established under the authority of Chapter 160A, Article 7 of the General Statutes of North Carolina.

I. Section 2. At Will Employment

The City of Washington is an "at will" employer. Nothing in this policy creates an employment contract or term between the City and its employees. No person has the authority to grant any employee any contractual rights of employment.

I. Section 3. Merit Principle

All appointments and promotions shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual's race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, or age.

I. Section 4. Responsibilities of the City Council

The City Council shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and may change the policies and benefits as necessary. They also shall make and confirm appointments when so specified by the general statutes.

I. Section 5. Responsibilities of the City Manager

The City Manager shall be responsible to the City Council for the administration and technical direction of the personnel program. The City Manager shall appoint, suspend, and remove all City officers and employees or may delegate this responsibility as authorized in **Article I, Section 8** except those officers and employees elected by the people or whose appointment is otherwise provided for by law. The City Manager shall make appointments, dismissals and suspensions in accordance with Chapter 160A-164 of the North Carolina General Statutes and this policy.

The City Manager shall provide or supervise in:

- (a) Recommending rules and revisions to the personnel system to the City Council for consideration;
- (b) Recommending to City Council changes as necessary to maintain an up to date and accurate position classification plan;
- (c) Recommending to the City Council necessary revisions to the pay plan;

- (d) Determining which employees shall be subject to the overtime provisions of the Fair Labor Standards Act (FLSA);
- (e) Performing such other duties as may be assigned by the City Council not inconsistent with this policy, and
- (f) Appointing an employee to the role of Human Resources Director.

I. Section 6. Responsibilities of the Human Resources Director

The City Manager shall appoint a Human Resources Director or perform this role him or herself. If serving as Human Resources Director, the Manager may choose to delegate any of these responsibilities. The responsibilities of the Human Resources Director are to provide or make recommendations to the City Manager on the following:

- (a) Recommending rules and revisions to the personnel system to the City Manager for consideration;
- (b) Coordinating changes as necessary to maintain an up to date and accurate position classification plan;
- (c) Recommending necessary revisions to the pay plan;
- (d) Recommending which employees shall be subject to the overtime provisions of the Fair Labor Standards Act (FLSA);
- (e) Maintaining a roster of all persons in the municipal service;
- (f) Establishing and maintaining a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, and other such data as may be desirable or useful;
- (g) Developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;
- (h) Developing and coordinating training and educational programs for City employees;
- (i) Periodically investigating the operation and effect of the personnel provisions of this Policy; and
- (j) Performing such other duties as may be assigned by the City Manager not inconsistent with this Policy.

I. **Section 7. Application of Policies, Plan, Rules and Regulations**

This personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all City employees. The City Manager, City Attorney, members of the City Council, members of advisory boards and commissions, part-time and temporary employees will be exempted in sections regarding employee benefits and leave, disciplinary and grievance procedures, classification plan, and pay plan, except where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

I. **Section 8. Responsibilities of Department Heads**

The head of each City department, with the approval of the City Manager, shall be authorized to appoint, suspend and remove City officers or employees assigned to the department.

I. **Section 9. Departmental Rules and Regulations**

Due to the particular personnel and operational requirements of the various departments of the City, each department is authorized to establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the City Manager and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy.

I. **Section 10. Definitions**

- (a) **Classification.** Positions or groups of positions having similar duties and responsibilities requiring similar qualifications, which can be properly designated by one title indicative of the nature of work performed, and which carry the same salary range.
- (b) **Demotion.** The reassignment of an employee to a position having a lower salary range than the position from which the reassignment is made.
- (c) **Full-Time Employee.** An employee appointed to a regularly established position who is regularly scheduled to work forty (40) hours or more per work week.
- (d) **Grievance.** Any matter of concern or dissatisfaction arising from the working conditions of an employee subject to the control of the City.
- (e) **Hiring Rate.** The lowest salary authorized by the pay plan for a position within an assigned salary grade.
- (f) **Immediate Family.** A spouse, mother, father, guardian, children, sister, brother, grandparent, grandchild, plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named.
- (g) **Job Rate.** A pay rate that corresponds with the attainment of journeyman-level skills (fully experienced in knowledge and skills).

- (h) **Job Maturity.** A developmental state of one's profession denoting a period of continual growth and increasing returns and added value to the organization.
- (i) **Maximum Salary Rate.** The highest salary authorized by the pay plan for A position within an assigned salary grade.
- (j) **Minimum Salary Rate.** The lowest salary authorized by the pay plan for a regular employee within an assigned salary grade.
- (k) **Part-Time Employee.** An employee appointed to a regularly established position who is regularly scheduled to work less than forty (40) hours per work week and is paid on an hourly basis.
- (l) **Part-Time Position.** A position for which the duties and responsibilities can be performed in less than a regular work day and/or work week.
- (m) **Pay Plan.** A schedule of salary ranges arranged by sequential grades including a hiring rate, minimum salary rate, job rate and a maximum salary rate for each salary grade.
- (n) **Pay Plan Revision.** The uniform raising or lowering of the salary ranges of every grade within the salary plan.
- (o) **Performance Evaluation System.** A system designed to provide a job-related, consistent, and objective format for employees and supervisors to discuss and document performance with the objective of improving individual performance.
- (p) **Position.** A group of current duties and responsibilities requiring the full or part-time employment of one person.
- (q) **Position Classification Plan.** A plan approved by the City Council that assigns classes to the appropriate salary grade and provides written specifications for each class of positions as well as descriptive class titles.
- (r) **Probationary Employee.** An individual appointed to a regular full-time position who has served less than twelve (12) months in the position except in individual situations where a probationary period has been extended.
- (s) **Promotion.** The reassignment of an employee to an existing position in the City service having a higher salary range than the position from which the reassignment is made.
- (t) **Reclassification.** The reassignment of an existing position from one class to another based on changes in job content.
- (u) **Regular Employee.** A full-time employee who has successfully completed the required probationary and/or trainee period for the position to which assigned and has been approved for regular status by his or her department head (with the approval, where applicable, of the City Manager).

- (v) **Regular Full-Time Position.** A position that has been approved by the City Council, the duties and responsibilities of which are required to be performed on a continuous basis normally requiring full-time employment of an individual.
- (w) **Salary Grade.** A number assigned to represent all classifications within a salary range.
- (x) **Salary Range.** The lowest and highest salary levels for a given classification in the pay plan.
- (y) **Temporary Employee.** An individual appointed to serve in a position for a definite duration, normally not to exceed twelve (12) months.
- (z) **Temporary Position.** A position for which the duties and responsibilities are required to be met for a specific period of time, normally not to exceed twelve (12) months, and which may or may not require attendance by a person for a full work day and/or work week.
- (aa) **Trainee.** An employee status when an applicant is hired, promoted, demoted, or transferred who does not meet all of the requirements of the position.

ARTICLE II. POSITION CLASSIFICATION PLAN

II. Section 1. Purpose

The position classification plan provides a complete inventory of all authorized part-time and full-time positions in the City service and an accurate description and specification for each class of employment. The plan standardizes job titles, each of which is indicative of a definite range of duties and responsibilities.

II. Section 2. Composition of the Position Classification Plan

The classification plan shall consist of:

- (a) A grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- (b) Class titles descriptive of the work of the class;
- (c) Written specifications for each class of positions; and
- (d) An allocation list showing the class title of each position in the classified service.

II. Section 3. Use of the Position Classification Plan

The classification plan is to be used:

- (a) As a guide in recruiting and examining applicants for employment;
- (b) In determining lines of promotion and in developing employee training programs;
- (c) In determining salary to be paid for various types of work;
- (d) In determining personnel service items in departmental budgets; and
- (e) In providing uniform job terminology.

II. Section 4. Administration of the Position Classification Plan

The City Manager, assisted by the Human Resources Director, shall allocate each position covered by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan. The Human Resources Director shall periodically review portions of the classification plan and recommend appropriate changes to the City Manager.

II. Section 5. Authorization of New Positions and the Position Classification Plan

New positions shall be established upon recommendation of the City Manager and approval of the City Council. New positions shall be recommended to the City Council with a recommended class title after which the City Manager shall either allocate the new position into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be allocated. The position classification plan, along with any new positions or classifications shall be approved by the City Council and on file with the Human Resources Director. Copies shall be available to City employees for review upon request.

II. Section 6. Request for Reclassification

Any employee who considers the position in which classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the department head to the Human Resources Director. Upon receipt of such request, the Human Resources Director shall study the request, determine the merit of reclassification, and recommend any necessary revisions to the classification and pay plan to the City Manager.

ARTICLE III. THE PAY PLAN

III. Section 1. Administration and Maintenance of the Pay Plan

The City Manager, assisted by the Human Resources Director, shall be responsible for the administration and maintenance of the pay plan. All employees covered by the pay plan shall be paid at a rate listed within the salary range established for the respective position classification, unless otherwise authorized within the Personnel Policy. The pay plan is intended to provide equitable compensation for all positions, reflecting differences in duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the City, and other factors. To this end, from time to time the City Manager shall request the Human Resources Director to make comparative studies of all factors affecting the level of salary ranges and make recommendations for adjustments in the allocation of positions to salary grades. Periodically, preferably every three to five years, the City will conduct a comprehensive classification and pay study to update the plan insuring internal equity and external competitiveness.

The Pay Plan, and all adjustments and changes, shall be approved by the City Council.

III. Section 2. Starting Salaries

All persons hired in positions approved in the position classification plan shall be hired at an initial salary equal to the hiring rate for the classification in which they are hired; however, on the recommendation of the department head and with the approval of the City Manager, exceptionally qualified applicants may be hired at an initial salary above the hiring rate of the established salary range for the classification.

III. Section 3. Trainee Salaries

Employees hired, promoted, demoted, or transferred to a trainee status (See Article IV, Section 9) shall be paid a salary within the salary range of the salary grade one salary grade below the salary grade established for the position for which the person is being trained unless a trainee classification has been established in the position classification plan in which case the employee shall be paid within the respective salary range.

Upon successful completion of the trainee period, the employee's salary shall be adjusted to a rate of pay at least at the hiring rate established for the position for which the employee was trained.

III. Section 4. Probationary Pay Increases

Employees hired below the minimum rate of the salary range shall receive a salary increase to the minimum rate upon successful completion of the probationary period. A probationary employee may also be eligible for a performance pay increase in accordance with Article III, Section 5 below. At no time shall an employee receive probationary pay and performance pay increases that combined are greater than 5%.

III. Section 5. Performance Pay

Employees may be considered for merit pay or job maturity pay increases. Performance pay increases are subject to annual appropriation and detailed procedures for determining performance levels will be provided by the City Manager. (See also Article V. Section 6)

- (a) An employee may receive a merit pay increase based upon his/her annual performance evaluation. A merit pay increase is awarded to only those employees whose performance exceeds expectations for what is expected of a fully qualified individual in that position. In no case shall an employee receive a merit pay increase that places an employee's salary above the maximum of the salary range for his/her position classification. (See Section 6. Performance Pay Bonus below)
- (b) A job maturity pay increase is awarded to an employee who meets the expectations of his/her job performance but has not yet reached the job rate for his/her salary range. In no case shall an employee receive a job maturity pay increase that places an employee's salary above the job rate of the salary range for his/her position classification.
- (c) An employee who is eligible for both a merit pay increase and job maturity pay increase shall receive that which provides the greatest increase, but may not receive both a job maturity and a merit pay increase within the same fiscal year.

III. Section 6. Performance Pay Bonus

- (a) Employees who reach the top of the salary range for their position classification are eligible to be considered for a performance bonus in lieu of a salary increase. Performance bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation. Performance bonuses shall be awarded in lump sum payments and do not become part of base pay.
- (b) Employees may also earn special performance based bonuses for the development and implementation of documented cost savings initiatives for the city. The objectives of these special bonuses are:
 - (1) To stimulate and reward employees for initiative and creative thinking that leads to a reduction in operating costs;
 - (2) To provide a means for recognizing individual ideas and contributions to the city government;
 - (3) To provide an opportunity to simplify work methods and operation and to improve services, safety and health; and
 - (4) To improve service and reduce government costs to the citizens of the City of Washington.

Special performance based bonuses shall be awarded in lump sum payments and do not become part of base pay. Such bonuses can only be awarded with the City Manager's approval and shall range from \$100 to a cap of \$300.

III. Section 7. Effect of Promotions, Demotions, and Lateral Transfers on Salary

- (a) **Promotions.** When a regular employee is promoted, the employee's salary shall be advanced to the minimum rate of the new position classification, or to a salary which provides an increase of at least five percent (5%) over the employee's salary before the promotion. Any salary increase above the new minimum and greater than five percent (5%) will require the approval of the City Manager. In no case shall the employee's new salary exceed the same relative place in the new salary range as his/her previous salary in his/her previous salary range nor shall it exceed the maximum rate of the new salary range. (See Article IV, Section 7.)
- (b) **Demotions.** When an employee is demoted to a position for which he/she is qualified, the employee's salary shall be reduced by at least five percent (5%) and may be reduced to the same relative place in the new salary range as his/her previous salary in his/her previous salary range. Notwithstanding the foregoing, in the event of a demotion in order to avoid a potential lay off or other reason related to a reduction in force, the City Manager, in his/her discretion, may retain or reduce the demoted employee's salary in order to retain a qualified employee. In no case shall a demoted employee's salary exceed the maximum of the new salary range. (See Article IV, Section 8.)

In the event of a salary retention by the City Manager related to reduction-in-force and in any case where the demoted employee's salary is not reduced to the same relative place in the new salary range as his/her previous salary in his/her previous salary range, such decisions shall be taken into consideration in any future salary decision concerning that particular employee and may make said employee ineligible for certain salary increases, including but not limited to promotion, reclassification and/or range revision related increases, until the employee returns to the same salary grade as prior to the demotion.

- (c) **Lateral Transfers.** The salary of an employee reassigned to a position in the same class or to a position in a different class within the same salary range shall not be changed by the reassignment. (See Article IV, Section 9.)

III. Section 8. Reclassifications and Salary Range Revisions

- (a) **Reclassifications.** When an employee's position is reclassified to a classification having a higher salary range, the employee's salary shall be advanced to the minimum rate of the new salary range, or to a salary which provides an increase of at least five percent (5%) over the employee's salary before the reclassification. Any salary increase above the new minimum and greater than five percent (5%) will require the approval of the City Manager. In no case shall the employee's new salary exceed the same relative place in the new salary range as his/her previous salary in his/her previous salary range nor shall it be increased to a rate that exceeds the maximum rate of the new salary range. If the position is reclassified to a lower salary range, the employee's salary may remain the same as before the reclassification. If the employee's salary is retained at a pay rate above the maximum of the new salary range, the salary of the employee shall remain the same as before the reclassification until the new salary range is adjusted so that the maximum rate of the range is above the employee's salary.

- (b) **Salary Range Revisions.** When a classification of positions is assigned to a higher salary range, the salaries of employees in that classification shall be advanced to the minimum rate of the new salary range, or to a salary which provides an increase of at least five percent (5%) over the employee's salary before the salary range revision. Any salary increase above the new minimum and greater than five percent (5%) will require the approval of the City Manager. In no case shall the employee's new salary exceed the same relative place in the new salary range as his/her previous salary in his/her previous salary range nor shall it be increased to a rate that exceeds the maximum rate of the new salary range. When a classification of positions is assigned to a lower salary range, the salaries of employees in that classification shall remain the same as before the salary range revision. If a classification of positions is assigned to a lower salary range and if the employee's salary is above the maximum established for the new salary range, the salary of the employee shall remain the same as before the salary range revision until the new salary range is adjusted so that the maximum rate of the range is above the employee's salary.

III. **Section 9. Transition to a New Pay Plan**

The following principles shall govern the transition to a new pay plan:

- (a) No employee shall receive a salary reduction as a result of the transition.
- (b) With the exception of trainees being paid at a rate lower than the hiring rate established for their respective classification, all probationary employees shall have their salaries raised at least to the new hiring rate for their classification under the new pay plan, when applicable.
- (c) The salaries of all regular, non probationary employees shall be advanced at least to the minimum rate of the new salary range for their classification under the new pay plan, when applicable.
- (d) If the employee's salary is above the maximum rate established for their respective classification under the new pay plan, the salary of the employee shall remain the same as before adoption of the new pay plan until the new salary range is adjusted so that the maximum rate of the range is above the employee's salary.
- (e) Due to salary compression problems and other equity issues often created by the implementation of a new pay plan, every effort shall be made to identify potential problems and address them in an equitable manner to minimize negative effects and morale problems for regular employees.

III. Section 10. Pay for Part-Time and Temporary Work

Compensation for any employee appointed to a part-time or temporary position shall be computed on an hourly basis. Part-time employees shall be paid at the hiring rate of the salary range for the classification in which they are hired, however, on the recommendation of the department head and with the approval of the City Manager, exceptionally qualified applicants may be hired at an hourly rate of pay above the hiring rate of the established salary range for the classification. Part-time employees who are members of the North Carolina Local Governmental Employees' Retirement System (LGERs) shall be paid at least at the minimum rate of the established salary range for the classification after twelve (12) months of employment. (See Article VII. Section 3)

III. Section 11. Overtime Pay Provisions

Employees of the City can be requested and may be required to work overtime hours as necessitated by the needs of the City and determined by the Department Head. All overtime hours must be authorized by appropriate management or City official.

To the extent that local government jurisdictions are so required, the City will comply with the Fair Labor Standards Act (FLSA). The City Manager, assisted by the Human Resources Director following FLSA regulations, shall determine which jobs are "non-exempt" and are, therefore, subject to the FLSA in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees will be paid at a straight time rate for hours worked up to the FLSA established limit for their positions (usually 40 hours in a 7 day period; 171 hours for law enforcement and 212 for fire personnel in a 28 day cycle). Hours beyond the FLSA established limit will be compensated in the appropriate manner outlined in the next paragraph. In determining eligibility for overtime in a work period, only hours actually worked shall be considered. In no event will holidays, vacation, sick or compensatory leave hours be counted toward the total hours for the purpose of overtime compensation.

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable FLSA work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime for hours worked in excess of the FLSA work period will be paid at a time-and-one-half rate or taken as compensatory time at a time-and-one-half rate, in accordance with FLSA regulations. Straight time pay or compensatory time on an hour-for-hour basis will be issued for work periods in which paid leave and hours worked combined exceed regular scheduled hours, however, actual hours worked do not exceed the FLSA established limit. Overtime earned shall reflect the actual amount rounded to the nearest fifteen (15)-minute interval.

Employees in positions determined to be “exempt” from FLSA (as executive, administrative, or professional staff) will not normally receive pay for hours worked in excess of their normal work periods. These employees may be granted compensatory leave by their supervisor on an hour for hour basis where the convenience of the department allows and in accordance with procedures established by the City Manager. Compensatory time for exempt employees shall be cleared at the end of each calendar year. In the event of extenuating circumstances unused compensatory time may be carried through the end of January of the following year, at the discretion of the City Manager. Compensatory time for exempt employees is not guaranteed to be taken and ends without compensation upon separation from the organization. At the discretion of the City Manager, exempt employees may receive emergency pay on an hour- for- hour basis for time worked in unusual or emergency situations.

Employees must record compensatory time accrued and used on their time cards in order for it to be valid.

III. Section 12. Policy on Exempt Employee Pay

In accordance with the Fair Labor Standards Act regulations, exempt employees who are required to be paid on a salary basis may not have their pay reduced for variations in the quantity or quality of work performed. An exempt employee who feels their pay has been improperly reduced should report this immediately as specified below.

Exempt employees normally must receive their full salary for any week in which they perform any work, without regard to the number of days or hours worked. However, exempt employees need not be paid for any workweek in which they perform NO work at all for the City. Deductions from pay cannot be made for an exempt employee as a result of absences when an exempt employee is ready, willing and able to work; however, work is not available due to operations of the City.

The few exceptions that will allow a deduction in pay of less than one week for an exempt employee are:

- (a) Absences of one or more full days for personal reasons when an employee has exhausted all vacation leave and/or compensatory leave or is not yet eligible to use vacation leave in accordance with the City’s personnel policy.
- (b) Absences of one or more full days due to sickness or disability when an employee has exhausted all sick, vacation, and/or compensatory leave, or is not yet eligible to use sick and/or vacation leave in accordance with the City’s personnel policy.
- (c) Unpaid disciplinary suspensions of one or more full days in accordance with the City’s disciplinary policy.
- (d) Deductions for the first and last week of employment, when only part of the week is worked by the employee.
- (e) For weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act, in which circumstance either partial day or full day deductions may be made.

If any employee believes that an improper deduction has been made to his/her salary, the employee should immediately report this information to the Human Resources Director.

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, the employee will be promptly reimbursed for any improper deduction made.

III. Section 13. Stand-By Pay

An FLSA non-exempt employee who is scheduled for stand-by (on call) shall be paid one hour at one and one half (1.5) times their regular hourly rate for each day of stand-by whether or not the employee is called out.

Non-exempt employees on stand-by on an official holiday (as observed by the City) shall receive four additional hours of stand-by pay for each officially observed holiday. When an official holiday falls on a weekend and results in the closing of City offices during a weekday, then holiday stand-by pay shall be awarded for the actual holiday itself, rather than on the weekday observing the holiday. (See Article III, Section 15. (b) Holiday Premium Pay)

III. Section 14. Call-Back Pay

When an FLSA non-exempt employee is called back to work after leaving the work site and is requested to respond to an emergency work situation i.e. emergency work is needed to avoid significant service disruption, avoid placing employees or the public in unsafe situations, protect and/or provide emergency services to property or equipment, etc., the employee shall receive call-back pay equal to one and one half (1.5) times their regular hourly rate. When an employee returns to work for an emergency call, time actually worked and travel to the worksite shall be included in hours worked for determining call back pay. An employee who returns to work under this policy is guaranteed a minimum of two (2) hours of call back pay, or a minimum of one (1) hour of call-back pay if receiving stand by pay. An FLSA non-exempt employee responding via telephone/computer shall receive a minimum of thirty (30) minutes of call-back pay. An employee whose work continues following the end of regularly scheduled hours of work is not eligible for call back pay.

FLSA exempt employees shall be compensated for call back time in accordance with the Overtime Pay Provisions as outlined in Article III Section 11.

III. Section 15. Holiday Premium Pay

- (a) An employee, including full-time, part-time, and temporary, required to work on any designated holiday shall be given, in addition to regular salary, premium pay equal to one half of the employee's straight hourly rate for actual hours worked on the holiday. In addition, full-time employees shall either receive holiday time off at a later date or may be compensated for the unused holiday at his/her regular rate of pay, as determined by the department head based on the needs of the department. Exempt employees, however, may be compensated by time off only for the unused holiday.

- (b) When the actual holiday falls on a weekend, but City services observe the holiday on a different day, employees who work on the actual holiday shall receive additional compensation for the actual holiday, not the observed day. This policy applies to the following official holidays: New Year's Day, Easter Sunday, Independence Day, Veterans Day, Christmas Eve and Christmas Day.
- (c) If holiday leave is elected in lieu of pay for time worked on a holiday, such leave must be taken within three months of the holiday for which it was earned or, the employee shall be paid. Should the employee separate employment before the holiday leave is taken, payment shall be issued in the employee's last pay check.

III. Section 16. Pay for Acting in a Higher Level Classification

An employee who is formally designated for a period of at least one month to perform the duties of a position that is assigned to a higher salary grade than that of the employee's regular position classification shall receive an increase for the duration of the "acting" assignment. The employee shall be compensated at a rate of pay equivalent to the hiring rate of the new position classification or which provides an increase of at least five percent (5%) over the employee's regular salary. Any salary adjustment greater than five percent (5%) will require the approval of the City Manager. In no case shall the employee's interim salary exceed the same relative place in the new salary range as his/her salary in his/her regularly assigned salary range nor shall it exceed the maximum rate of the new salary range. The salary increase shall be temporary and the employee's salary shall go back to the salary he or she would have had if not assigned to the "acting" role upon completion of the assignment.

III. Section 17. Longevity Pay

Longevity pay may be awarded (if appropriated in the annual City Budget) to each full-time employee, including the City Manager, based on the number of years of continuous full-time employment by the City on November 1 of each year. Compensation shall be twenty-five dollars (\$25.00) per each completed year of service. Employees who are terminated voluntarily or involuntarily after November 1 but before longevity checks are issued are entitled to longevity pay and will receive the compensation in their last paychecks.

III. Section 18. Payroll Deductions

Deductions shall be made from each employee's salary, as required by law. Any other payroll deduction must be approved by the City Manager.

III. Section 19. Payroll Procedures

All employees shall be paid on a bi-weekly basis. Pay periods begin on Monday and end on Sunday two weeks later. Paychecks are issued on Friday following the end of the pay period. If payday falls on a holiday, employees will be paid on the last working day before the holiday.

III. Section 20. Direct Deposit

All employees, including part-time and temporary employees, are required to participate in direct deposit for their bi-weekly paychecks. Direct deposit pay notification will be sent by email.

ARTICLE IV. RECRUITMENT AND SELECTION

IV. Section 1. Equal Employment Opportunity Policy

It is the policy of the City to foster, maintain, and promote equal employment opportunity. The City shall select employees on the basis of the applicant's qualifications for the job and award them, with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to religion, gender, age, national origin, color, race, disability, political affiliation, or, marital status. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of required duties with or without reasonable accommodation.

IV. Section 2. Implementation of Equal Employment Opportunity Policy

All personnel responsible for recruitment and employment shall continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination, harassment or retaliation because of religion, gender, age, national origin, color, race, disability, political affiliation, marital status or any other reason prohibited by law. Notices with regard to equal employment shall be posted in conspicuous places on City government premises where notices are customarily posted.

IV. Section 3. Recruitment and Application

- (a) When position vacancies occur the Human Resources Director shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Employment announcements shall contain assurances of equal opportunity and shall comply with federal and state statutes.
- (b) Vacant positions may be posted for internal consideration (promotion, demotion, or lateral transfer) first, before advertising to the general public. Full-time and part-time employees who were initially hired through a competitive recruitment process are eligible for consideration for internal vacancy posting opportunities. Internal applicants shall apply for position vacancies using the same application process as external candidates.
- (c) Notice of vacancies shall be posted at designated conspicuous sites within City departments. In addition, information on job openings and hiring practices shall be published in local and/or other news media as necessary to inform the community and create a quality and diverse pool of applicants. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for City service. The North Carolina Employment Security Commission shall normally be used as a recruitment source.
- (d) In rare situations because of emergency conditions, avoidance of reduction –in –force, high turnover, etc., the City may hire or promote without advertising jobs, upon approval of the City Manager.

- (e) All persons expressing interest in employment with the City shall be given the opportunity to file an application for employment when a position is vacant and when the City is advertising to fill such positions.
- (f) Applications shall be kept in an inactive reserve file for two (2) years, in accordance with Equal Employment Opportunity Council guidelines and the Records Retention Schedule issued by the N.C. Division of Archives and History. Applicants must notify the Human Resources Department if they wish to have their application reactivated for a position vacancy other than the one(s) originally identified on the application.

IV. Section 4. Selection and Appointment

- (a) Department heads, with the assistance of the Human Resources Director, shall make such investigations and conduct such processes as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position. All selection devices administered by the City shall be valid measures of job performance.
- (b) Before a conditional offer is made to an applicant, either internal or external, the department head shall ensure that references and appropriate background information have been checked and documented and then inform the Human Resources Director as to the candidate selected. The Human Resources Director shall conduct a driver's license check, if applicable, and a criminal records check and forward the findings with a recommendation back to the department head.
- (c) Upon determination of an appropriate salary rate in accordance with the provisions outlined in **Article III. The Pay Plan**, the department head shall make a conditional offer of employment contingent upon satisfactory results of a pre-employment drug screen, which is coordinated by the Human Resources Director. Psychological exams and physicals required for police and fire personnel are also conducted after a conditional offer is made.

IV. Section 5. Probationary Period

An employee hired to a regular full-time position shall serve a twelve (12) month probationary period. Probationary employees shall receive a performance evaluation prior to the end of the designated probationary period. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Performance deficiencies should be documented in a timely manner and shared with the employee with a signature on file acknowledging receipt. In the probationary performance evaluation, the supervisor shall conduct and document a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed.

Probationary periods may be extended for a maximum of three (3) additional months unless additional time is approved by the City Manager based upon recommendation by the department head due to extenuating circumstances. In such cases, the employee must be notified of the purpose of the extension, the conditions and performance expectations, and the length of time of the extension.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in **Article IX.**

IV. Section 6. Trainee Designation and Provisions

Applicants being considered for employment or City employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred upon request of the department head and with the approval of the City Manager to a trainee status. In such cases, a plan for training, including a time schedule, must be prepared by the department head.

If the training is successfully completed, the employee shall be appointed to the regular classification and must then complete the required probationary period. If the training is not successfully completed as planned, the trainee shall be transferred, demoted, or dismissed.

IV. Section 7. Promotion

Promotion is the movement of an employee from one position to a position in a classification assigned to a higher salary range. It is the City's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is the best suited of all applicants, that applicant shall be appointed to that position. Candidates for promotion shall be chosen on the basis of their experience, qualifications, and work records. **(See Article III, Section 7.)**

IV. Section 8. Demotion

Demotion is the movement of an employee from one position to a position in a classification assigned to a lower salary range. Demotion may be voluntary or involuntary. An employee whose work or conduct in his or her current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such disciplinary demotion shall be made in accordance with the procedures set forth in **Article III, Section 7, and Article IX.** of this policy.

An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a voluntary demotion. A voluntary demotion is not a disciplinary action and is made without using the procedures set out in **Article IX.** of this **policy.**

IV. Section 9. Lateral Transfer

Lateral transfer is the movement of an employee from one position to a position in another classification in the same salary range. Employees may in some circumstances be involuntarily transferred to a different position or assignment equal in classification and pay based on the needs of the organization. **(See Article III, Section 7.)**

ARTICLE V. CONDITIONS OF EMPLOYMENT

V. Section 1. Work Schedule

Department heads shall establish work schedules, with the approval of the City Manager, which meet the operational needs of the department in the most cost effective manner possible.

V. Section 2. Safety

Safety is the responsibility of both the City and employees. It is the policy of the City to establish a safe work environment for employees. The City shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department heads and supervisors are responsible for ensuring the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures shall be subject to disciplinary action, up to and including dismissal.

V. Section 3. Gifts and Favors

No official or employee of the City shall accept any gift, favor, or thing of value (more than \$50) that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service or thing of value.

V. Section 4. Political Activity

Each employee has a civic responsibility to support good government by every available means and in every appropriate manner. Each employee may join or affiliate with civic organizations of a partisan or political nature, may attend political meetings, may advocate and support the principles or policies of civic or political organizations in accordance with the Constitution and laws of the State of North Carolina and the Constitution and laws of the United States. However, no employee shall:

- (a) Engage in any political or partisan activity while on duty;
- (b) Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- (c) Be required as a duty of employment or as a condition of employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- (d) Coerce or compel contributions from another employee of the City for political or partisan purposes;
- (e) Use any supplies or equipment of the City for political or partisan purposes; or
- (f) Be a candidate for nomination or election to office under the City Charter.

Any violation of this section shall subject the employee to disciplinary action, up to and including dismissal.

V. Section 5. Soliciting Funds

- (a) No individual or group of City employees shall solicit or sell any goods or services for any function without first securing the consent of the department head. If approved, such activity shall only be conducted during authorized breaks, meal periods, or after hours.
- (b) The United Way is the only non-City related fund that is allowed to solicit City employees on its grounds. Any other fund or charitable organization must receive the permission of the City Manager.
- (c) Outside vendors for profit are not allowed to solicit without approval of the City Manager. If approved, a pre-determined time and location shall be designated.

V. Section 6. Performance Evaluation

Supervisors and/or department heads shall conduct performance evaluation conferences with each employee at least once a year. These performance evaluations shall be documented in writing to the employee's personnel file. The purpose of the evaluation is to improve individual and organizational performance. Consultation between the employee and supervisor regarding performance at times other than the annual performance evaluation is anticipated and encouraged under this policy and shall be considered to supplement rather than replace the annual performance evaluation. Procedures for conducting performance evaluations shall be published in policies developed by the City Manager, with the assistance of the Human Resources Director.

An employee's absence from his/her regular work duties due to sick leave, leave without pay, workers' compensation, or any other authorized leave for more than thirty (30) consecutive calendar days shall result in a one month extension for the annual performance evaluation review for each thirty (30) consecutive days of absence from work, so as to allow adequate time for evaluation of performance.

V. Section 7. Outside Employment

- (a) The work of the City shall have precedence over other occupational interests of employees. In order to protect the interest of the employee and the City, all outside employment for salaries, wages, or commission and all self-employment must be reported in advance to the employee's department head. The department head will determine whether the outside work would create a conflict of interest or otherwise be incompatible with City service. Department heads wishing to obtain other employment, including consulting and/or training with other agencies or organizations, must obtain approval from the City Manager. Conflicting or unreported outside employment is grounds for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee's personnel file and must be updated and approved annually.

Examples of conflicts of interest in outside employment include but are not limited to:

- (1) Employment with organizations or in capacities that are regulated by the employee or the employee's department;

- (2) Employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's City duties.
- (3) Employment that causes undue absence from regular business operations greater than normal.

(b) **Outside Employment During Family Medical Leave (FMLA).** Approved outside employment is prohibited during a paid or unpaid family medical leave of absence (FMLA) from work. Approved outside employment may be reinstated during periods when intermittent family medical absences (FMLA) from work will occur subject to the approval of the Department Head and the Director of Human Resources.

(c) **Outside Employment During Workers' Compensation Leave.** Outside employment will be prohibited for employees removed from work by a City approved physician due to an on the job injury. Outside employment may be prohibited for employees returned to work on a modified duty assignment. Outside employment during a modified duty assignment shall require the approval of the Department Head and the Director of Human Resources.

V. **Section 8. Limitation of Employment of Relatives**

(a) With the exception of the Parks and Recreation, Electric, and Public Works departments, no members of an immediate family can be employed in the same City department at the same time. In the Parks and Recreation, Electric and Public Works departments, no members of an immediate family can be employed in the same division at the same time. Neither shall two (2) members of an immediate family be employed at the same time if such employment would result in an employee directly or indirectly supervising a member of the immediate family.

(b) The City also prohibits the continued employment or hiring of any person into a regular position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro-Tem, City Council Member, City Manager, or Human Resources Director. If an immediate family member is elected or appointed into one of these positions, then the employee must resign by the beginning of the term of services.

(c) Immediate family is defined in **Article I, Section 10**. Disregard for this policy may be grounds for dismissal.

V. Section 9. No-Harassment/No-Discrimination Policy

The City will not tolerate any form of harassment or discrimination. Harassment or discrimination in any form violates the City's No-Harassment/No-Discrimination Policy, which prohibits harassment, discrimination or intimidation of others based on age, sex, color, race, creed, religion, national origin, ethnicity, disability, marital status, military/veteran status, status in any other group protected by federal or local law, or for any other reason, and will not be tolerated.

Harassment includes, but is not limited to, remarks, jokes, written materials, symbols, paraphernalia, clothing or other verbal or physical conduct which may intimidate, ridicule, demean or belittle a person because of his or her age, sex, color, race, creed, religion, national origin, ethnicity, disability, marital status, military/veteran status, or status in any other group protected by federal state or local law.

Sexual harassment includes unwelcome sexual advances; requests for sexual favors; other verbal or physical conduct of a sexual nature; as well as behavior, remarks, jokes or innuendos that intimidate, ridicule, demean or belittle a person on the basis of his or her gender (regardless of whether the remarks are sexually provocative or suggestive of sexual acts).

Harassment occurs when:

Submission to and/or tolerance of the unwelcome conduct is explicitly or implicitly made a term or condition of a person's employment:

- (a) Submission to, tolerance of, and/or rejection of the unwelcome conduct is a basis for employment decisions;
- (b) The unwelcome conduct substantially interferes with a person's work performance and creates an intimidating, hostile or offensive work environment.

Each City employee has the responsibility to bring any form of harassment or discrimination to the City's attention.

All employees are responsible for helping assure that the City avoids harassment and discrimination in the workplace. An employee who experiences any problem of this sort, becomes aware of any other employee experiencing a problem of this sort, or has knowledge of any form of harassment or discrimination, sexual or otherwise, must immediately report it to his or her supervisor. If the employee believes that it would be inappropriate to discuss the matter with his or her supervisor or is uncomfortable discussing the matter with his or her supervisor, then the employee may elect to bypass the supervisor and report the matter directly to the department head, the Human Resources Director or the City Manager.

The City will investigate thoroughly and promptly all claims of harassment or discrimination, without reprisal to the employee experiencing or reporting the conduct, so long as the report is made in good faith and the information provided is truthful to the best of the reporting employee's knowledge. The City will endeavor to keep complaints, investigations and resolutions confidential to the extent possible; however the City cannot compromise its obligation to investigate complaints.

If an investigation confirms that unlawful harassment or discrimination has occurred, the City will take immediate corrective action, including discipline up to and including termination of employment of the harassing party, as is appropriate. However, if, after investigating any complaint of harassment or discrimination, the City determines that the complaint is not bona fide and was not made in good faith, or that any employee has provided false information regarding the complaint, disciplinary action may be taken against the employee who filed the improper complaint or who gave the false information.

Retaliation against employees who make complaints under this section is expressly prohibited.

Violation of this policy against unlawful harassment and discrimination or retaliation against employees for making complaints about unlawful harassment and discrimination, will subject the violating or retaliating employee to disciplinary action up to and including dismissal.

V. Section 10. Residency Requirement

Certain positions require, by City Code, residency within the corporate limits of the City or other residency requirements. Residency requirements must be met within twelve (12) months of appointment and must be maintained for the duration of employment in such capacity with the City.

V. Section 11. Travel Time and Expenses

- (a) When an employee is attending a convention, conference, training course, etc., he or she is considered to be on City business unless all the following criteria apply:
 - (1) Attendance occurs outside the employee's regular work hours; and
 - (2) Attendance is voluntary; and
 - (3) The employee performs no productive work while attending the training; and
 - (4) The program, lecture or meeting is not directly related to the employee's job.
- (b) All out-of-state travel must be approved by the City Manager.
- (c) Time spent traveling to and from another City whether on a one-day assignment or overnight shall be counted as work time. However, if an employee is offered public transportation but requests permission to drive his/her car instead, travel time counted as work may be adjusted if the public transportation would have taken less time.
- (d) Any work which an employee is required to perform while traveling shall be counted as hours worked.

- (e) Employees should refer to the City's formally adopted travel policy regarding payment and reimbursement of expenses incurred.

V. Section 12. Use of City-Owned Equipment or Supplies

The personal use of any City-owned equipment or supplies by any employee is prohibited unless authorized by the City Manager. Should such authorization be granted, the use will be limited to the use specified in the authorization.

V. Section 13. Use of City-Owned Vehicles

- (a) Vehicles owned by the City may be assigned to or provided for use by an employee in connection with City business and shall be used only on City business. When the vehicle is not being used for City business, it shall be kept at a designated location on the City's premises.
- (b) Before assigning an employee to operate a vehicle, the department head shall ensure that the employee is a minimum of eighteen (18) years of age and has an appropriate and valid driver's license.
- (c) An employee to whom a vehicle is assigned shall be responsible for obtaining inspections and maintenance, including cleaning, of the vehicle and checking and maintaining required fluid levels.
- (d) If a vehicle is not assigned to a specific employee, the department head or his/her designee of the department to which the vehicle is assigned shall be responsible for obtaining inspections and maintenance, including cleaning, of the vehicle and checking and maintaining required fluid levels.
- (e) All vehicles will be operated in accordance with the City of Washington's Employee Safety Manual.
- (f) City-owned vehicles may be authorized to be driven home in accordance with the following provisions.
 - (1) Non-Emergency Personnel – There are occasions when City Employees, because of their job requirements, need to be provided city-owned vehicles in order to provide for the orderly and efficient operation of City functions. These positions will be recommended to and approved by the City Council during its annual budget approval.
 - (2) Emergency Personnel – In order to provide emergency services outside of the normal workday, Public Service and Police and Fire Service employees may be allowed to use a city-owned vehicle to commute to and from their residence during the time that the employee is scheduled for call-back times.
- (g) At no time shall an employee living more than twenty (20) road miles of the city limits be allowed to drive a vehicle home.

V. Section 14. City Provided Cellular Telephone / Electronic Mobile Devices

The City will provide cellular telephones and/or other electronic mobile devices to employees for business use when the use of such devices will increase the level of service provided to the City's customers, increase the level of safety for the City employee, and/or satisfy legal requirements.

The City Manager may alternatively authorize an employee personal cellular telephone and/or electronic mobile device allowance to promote the City's legitimate business purposes, such as efficiency and quality service to customers and clients.

A City cellular telephone and/or electronic mobile device shall be used for appropriate City business purposes. Unless specifically authorized by the City Manager, personal use of these devices is a misuse of City property. Incidental personal use, however, will not be a violation as long as it is infrequent and does not result in costs to the City. Should charges be incurred over the cost of the basic plan and the charges are a result of personal calls or data usage, the responsible employee shall be required to reimburse the City for those charges.

The City of Washington reserves the right to review, audit and inspect information residing in or transferred to the city issued cellular telephone or other electronic mobile device, at any time with or without notice. The City discourages a non-business disclosure of cellular telephone numbers as the telephones are the property of the City and not the employee.

Employees shall comply with all legal requirements when operating a City-owned and/or issued electronic devices and at any time an employee is conducting City business. Employees also shall comply with the provisions of the Employee Safety Manual and departmental policies, where applicable, regarding operation and use of cellular and/or other electronic mobile devices.

Abuse of cellular telephones and/or electronic mobile device privileges could result in the loss such privileges, as well as disciplinary action up to and including dismissal.

V. Section 15. Internet, E-Mail, Telephone, and Other Communications Systems

Computer systems, telephones, communication radios and facsimile, photocopier and scanner machines are City property. These systems exist to promote the City's legitimate business purposes, such as efficiency, honesty, and quality service to customers and clients.

Employees have no right to privacy with regard to their use of such equipment and the City may monitor all communications and activities involving the use of City property. Communications on the City's systems will not be confidential and communications may be intercepted by the City.

The Internet / e – mail and telephone systems should be used primarily for business purposes and personal use should be kept to a minimum. The radio communications system and facsimile, photocopier and scanners should be used for business purposes. Any personal usage shall be kept to a minimum and recorded in order that the responsible party shall be billed for any relevant charges.

The City prohibits intentionally accessing and viewing of adult/sexually explicit websites, sending or forwarding adult/sexually explicit materials, sending or forwarding of messages under circumstances likely to insult or embarrass the recipient, containing unwelcome propositions, ethnic or racial slurs, or any other message that can be construed to be harassment or disparagement of others based on their sex, race, age, disability, national origin, religious beliefs, or any other category protected by federal, state, or local laws.

Employees shall not use the City's communications system to send or receive copyrighted material, trade secrets, proprietary information, including financial information, or other similar materials without previous authorization.

The Information Technology Services Department shall monitor the City's communication systems use. Any misuse of Internet / e – mail, telephones, radio communications, facsimile, photocopier and scanner communication systems may result in, but is not limited to, one or more of the following actions: loss of system privileges, employee reimbursement of personal use expense to the City, disciplinary actions and/or termination of employment.

V. Section 16. Prohibition of Weapons Policy

Under no circumstances are the following items permitted on City property, including employee parking areas: all types of firearms, switchblade knives, and knives with a blade longer than four (4) inches, dangerous chemicals, explosives, including blasting caps, chains and other objects carried for the apparent use of injuring or intimidating another, with the exception that similar items necessary for the proper functioning of the police and fire departments are permitted upon City property.

V. Section 17. Workplace Inspections and Privacy Notice

In order to safeguard the property of the City and our employees, maintain a safe working environment for our employees, and to help prevent the possession, sale and/or use of illegal drugs on City property, the City reserves the right to search any employee's office, desk, files, locker, sleeping areas, or any other area or article which is on City property. Inspections may be conducted at any time, when the City Manager or department head determines that a search is appropriate.

Please be aware that all offices, desks, files, lockers, sleeping areas, etc. are considered City property, and are provided for employee's use in their employment. The City will maintain a master key and/or a record of any combination/passcode for any locks installed in or on such areas. No employee should have an expectation of privacy with respect to any items or information located on or in City property, including but not limited to the areas listed above. As such, information and items which any employee considers private and/or personal should not be maintained on or in City property.

Refusal to cooperate or permit any inspection pursuant to this policy may result in disciplinary action, up to and including termination.

This policy regarding workplace searches shall be posted in conspicuous places on City government premises where notices are customarily posted.

V. **Section 18. Loss or Damage of Personal Property in Performance of Duty**

At the department head's discretion, the City shall repair, replace or reimburse an employee for loss or damage to personal property occurring as a direct result of performance of duty that the employee could not have prevented by exercising reasonable caution. Personal vehicles are excluded from this provision.

V. **Section 19. Surrender of Property**

An employee who is suspended or terminated shall be required to return all items of equipment and supplies, including uniforms, owned by the City. The employee's final paycheck will be reduced to compensate the City for the value of those items not returned. The final wages will not be reduced below minimum wage in accordance with North Carolina law.

ARTICLE VI. HOLIDAYS AND LEAVE

VI. Section 1. Holidays

- (a) The City will observe the following days as holidays with pay for full-time and eligible part-time employees and the City Manager:

- New Year's Day
- Martin Luther King, Jr. Day
- Easter (Good Friday)
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas, two (2) workdays (see following Christmas holiday schedule).

- (b) When a holiday, other than Christmas which is specified below, falls on a Saturday or Sunday, Monday shall be observed as a holiday.

<u>When Christmas Falls On:</u>	<u>The City Observes:</u>
Sunday	Friday and Monday
Monday	Monday and Tuesday
Tuesday	Monday and Tuesday
Wednesday	Tuesday and Wednesday
Thursday	Wednesday and Thursday
Friday	Thursday and Friday
Saturday	Friday and Monday

- (c) Non-administrative fire personnel will receive nine (9) shift days per year for holiday leave in lieu of the following holidays: New Year's Day, Martin Luther King, Jr. Day, Easter Sunday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas.
- (d) All full-time employees will receive their designated holiday shift days whether they are on or off duty when the holiday occurs.
- (e) In order to be eligible for holiday pay, an employee must have been in pay status for a full regularly scheduled work day before and after the holiday.
- (f) Front-loading of holiday leave may be permitted for shift employees at the discretion of the department head due to the unique problems often created by shift work.
- (g) Regular holidays which occur during a vacation, sick or other paid leave period of an employee shall not be considered as vacation, sick or other leave.

- (h) A full-time employee whose regular day off falls on a designated holiday shall be entitled to compensation, in addition to his or her regular pay, in the form of time off or pay, on an hour-for-hour basis, as determined by the department head based on the needs of the department. If the employee has not been compensated for the holiday either in the form of time off or pay within three (3) months of the holiday or prior to separation from employment, the employee shall be paid for the holiday.
- (i) In the event that an employee is unable to take holiday leave on the designated holiday due to required work on the holiday or the holiday falling on a regular day off, the employee shall use the earned holiday leave within three (3) months of the holiday for which it was earned and prior to vacation leave. An employee who does not take the holiday leave within three (3) months or prior to separation from employment shall be paid for the unused holiday.
- (j) Employees who are required to work on a designated holiday should refer to **Article III. Section 15 Holiday Premium Pay.**
- (k) If an employee requests to be away from work for certain religious holiday observances which are not otherwise covered under this policy, the employee's department head shall make efforts to accommodate the request, however, nothing shall obligate the department head to make accommodation if, in accommodating the request, it would result in undue hardship on the department or its employees. Religious holidays may be accommodated by adjusting the work schedule of the employee to the extent that it does not significantly impact the rights of other employees or allowing the employee to exchange another City holiday for the religious holiday provided that both the unscheduled religious holiday and the City holiday occur in the same calendar year. The following factors shall be considered in accommodating religious holidays:
 - (1) The accommodation creates no greater risk to the health and safety of the employee, fellow employees, or the general public;
 - (2) By accommodating the unscheduled religious holiday, expenses to the City will not increase;
 - (3) Meaningful work can be provided under the circumstances in which the employee will be working; and
 - (3) Supervision can be provided if deemed necessary.

VI. Section 2. Vacation Leave

- (a) Vacation leave may be used for rest and relaxation, school appointments, medical appointments, and other personal needs.

(b) Vacation Leave Accrual and Accumulation

- (1) Full-time employees, except fire personnel who work twenty-four and one-quarter (24.25) hour shifts, shall earn vacation leave at the following rates:

<u>Years of Continuous Service</u>	<u>Hours Earned Per Month</u>
Under 5 years	8
5 years but less than 10	10
10 years but less than 15	12
15 years but less than 20	14
20 years and over	16

- (2) Fire personnel who work twenty-four and one-quarter (24.25) hour shifts shall earn vacation leave at the following rate:

<u>Years of Continuous Service</u>	<u>Hours Earned Per Month</u>
Under 5 years	14.15
5 years but less than 10	16.17
10 years but less than 15	20.20
15 years but less than 20	22.22
20 years and over	24.25

- (3) Vacation leave will be accrued on the fifteenth (15th) of the month. An employee must be in pay status (at work or on paid leave) to be eligible for the monthly accrual. A new full-time employee will receive the monthly accrual if his or her effective date of employment is on or prior to the 15th of the month. An employee separating from employment or on leave without pay will receive the monthly accrual if his or her effective day of separation (last day of work) or first day of leave without pay is on or after the 15th of the month.
- (4) Vacation leave may be accumulated without any applicable maximum until December 31 of each year.
- (5) Employees are allowed to carry over up to two hundred forty (240) vacation hours to the next calendar year with the exception of the fire shift personnel. Fire shift personnel are allowed to carry over three hundred thirty-nine and one-half (339.5) vacation hours. Any amount over the maximum at the end of the calendar year will be converted to the employee's sick leave account.

(c) Vacation Leave Request and Use

- (1) All employees desiring to take vacation leave must request leave at least two (2) weeks before anticipated vacation by submitting a City provided Employee Leave Request Form to their supervisor. Exceptions can be made with the department head's approval.

- (2) Approval of requested leave shall be given with consideration to the needs of the department. Although approval of the use of vacation leave is discretionary, requests by an employee to use vacation leave for cultural and/or ethnic-related events should be granted if the employee has accrued vacation leave and the granting of the leave will not result in undue hardship on the agency or its employees.
 - (3) Unused holiday or overtime compensatory leave shall be taken before vacation leave.
 - (4) At the discretion of the employee's department head, hours worked in excess of the employee's established work schedule may be used to offset vacation leave in the same work week or work period.
 - (5) All City employees except non-administrative fire personnel must take at least forty (40) work hours of accrued vacation leave per calendar year. If an employee fails to do so, the difference between the amount of vacation that was taken and the required forty (40) hours will be lost as of December 31. The City Manager may authorize an employee to substitute the use of compensatory leave for all or part of this requirement upon request of the employee's department head due to extenuating circumstances. This requirement begins with the first full calendar year that the employee is eligible to use vacation leave.
 - (6) All employees are limited to taking a maximum of two (2) consecutive work weeks of vacation and/or holiday leave with the exception of leave taken under the Family and Medical Leave Act. This limit may be waived by the City Manager for extenuating circumstances.
- (d) Vacation Leave Upon Separation from Employment
- (1) When an employee is separated from employment, he or she shall be paid for vacation leave accumulated to the date of separation, not to exceed three hundred thirty-nine and one-half (339.5) hours for fire shift personnel and two hundred forty (240) hours for all other employees.
 - (2) *An employee retiring under the provisions of the North Carolina Local Government Retirement System (NCLGERS) may have any excess vacation, above the maximum limits stated in (1) above, converted to sick leave and used for retirement service credit.*
 - (3) If an employee is separating from employment with the City in order to accept employment with another North Carolina local government or state agency, accumulated vacation leave may be transferred to the other agency in lieu of payment if the employee requests this transfer of leave in writing and provides verification from the receiving employer that the leave will be accepted prior to preparation of the employees final paycheck.
 - (4) An employee cannot take vacation leave in lieu of his or her two (2) weeks' notice without the City Manager's approval.

- (5) The estate of an employee who dies while employed by the City shall be entitled to payment for all the accumulated vacation leave credited to the employee's account, not to exceed the maximum number of hours eligible for payment upon termination.

VI. Section 3. Sick Leave

(a) Sick Leave Accrual and Accumulation

- (1) Full-time employees, with the exception of fire personnel who work twenty-four and one-quarter (24.25) hour shifts, shall earn sick leave at the following rates:

<u>Years of Continuous Service</u>	<u>Hours Earned Per Month</u>
1-20 years	8
Over 20 years	10

- (2) Fire personnel who work twenty-four and one-quarter (24.25) hour shifts shall earn sick leave at the following rates:

<u>Years of Continuous Service</u>	<u>Hours Earned Per Month</u>
1-20 years	14.15
Over 20 years	18.18

- (3) Sick leave will be accrued on the fifteenth (15th) of the month. An employee must be in pay status (at work or on paid leave) to be eligible for the monthly accrual. A new full-time employee will receive the monthly accrual if his or her effective date of employment is on or prior to the 15th of the month. An employee separating from employment or on leave without pay will receive the monthly accrual if his or her effective day of separation (last day of work) or first day of leave without pay is on or after the 15th of the month.
- (4) Sick leave will be cumulative for an indefinite period.
- (5) A new employee may transfer sick leave accumulated during employment with another municipality, county, or state agency to the City if the employee leaves the former governmental employer to accept employment with the City. The City must receive certification from the previous employer of sick leave which is eligible for transfer.
- (6) An employee who separates from employment with the City and is subsequently rehired within three years shall have his or her unused or non transferred sick leave reinstated.

(b) Sick Leave Request and Use

- (1) Sick leave is not a right, but a privilege.

- (2) Sick leave may be used when an employee is absent from work due to the following:
- Sickness, bodily injury, or exposure to a contagious disease when continuing work might jeopardize the health of others;
 - An ill or injured spouse, child, or parent (including step and in-law relationships) requiring care by the employee;
 - Medical or dental examinations or treatment, including preventative screenings, for the employee or for a spouse, child, or parent (including step and in-law relationships) requiring care or assistance of the employee;
 - Birth of a baby during the employee or the spouse's period of disability;
 - During the waiting period before Workers' Compensation benefits begin; or
 - Death in the employee's immediate family, up to three (3) days or twenty four (24) hours for shift personnel. (Immediate family is defined in [Article I, Section 10.](#)) Under extenuating circumstances, the City Manager may approve additional time upon the recommendation of the department head.
- (3) Notification of the desire or need to take sick leave shall be submitted to the employee's supervisor prior to the leave. Failure to notify the appropriate supervisor prior to the beginning of the scheduled work day or shift according to departmental procedures may result in disciplinary action.
- (4) The employee's supervisor or department head may require a physician's certificate stating the nature of the employee or employee's family member's illness and the employee's capacity to resume duties for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism". The employee may be required to submit to such medical examination or inquiry as the department head deems desirable.
- (5) If accumulated sick leave is not available, unused holiday leave, vacation leave or compensatory time may be used, subject to approval of the department head.
- (6) Upon the request of the department head, the City Manager may advance up to ten (10) days of sick leave to an employee with five (5) or more years of service who has exhausted his or her sick leave, vacation leave, and any other eligible paid leave as a result of a major illness or injury.

- (7) Employees on prolonged medical leave of absence due to serious medical conditions may be eligible for Shared Leave (see Article VI, Section 4.)
 - (8) Employees shall not be on duty when they might endanger their health or the health of other employees.
 - (9) There will be no abuse of sick leave privileges. Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action.
- (c) Sick Leave Upon Separation from Employment
- (1) A non-retiring employee hired prior to July 1, 1994, who becomes separated from service with the City shall be paid for twenty-five percent (25%) of his or her accumulated sick leave at a rate based on his or her final salary unless the reason for separation is a dismissal or resignation by the employee to prevent dismissal during a pre-disciplinary investigation; or the employee fails to provide proper notice (two weeks for most employees) unless the notice is waived upon recommendation of the Department Head and approved by the City Manager. Sick leave which has been transferred from another governmental employer is not included in computing terminal pay under this policy. Employees hired after July 1, 1994 are not eligible for payment of accumulated sick leave upon separation.
 - (2) If the separation is due to retirement, unused sick leave may be converted upon retirement for service credit consistent with the provisions of the N.C. Local Government Employees' Retirement System.
 - (3) If an employee is separating from employment with the City in order to accept employment with another North Carolina local government or state agency, accumulated sick leave may be transferred to the other agency if the employee requests this transfer of leave in writing and provides verification from the receiving employer.

VI. Section 4. Shared Leave

- (a) The purpose of voluntary shared leave is to provide economic relief for employees who, by reason of prolonged absence caused by serious medical conditions, are likely to suffer financial hardship.
- (b) An employee may request or may be recommended by co-workers or supervisors to receive shared leave.
- (c) Shared leave allows for employees to donate vacation leave to another City employee's sick leave account.
- (d) Shared leave is confidential. Only individual employees may reveal their donation or receipt of shared leave.

- (e) Participation is completely voluntary. An employee may not intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to donating, receiving, or using leave under this program. Such action shall be grounds for disciplinary action up to and including dismissal on the basis of detrimental personal conduct.
- (f) The following qualifications shall apply for an employee receiving Shared Leave.
- (1) The employee must be full-time and have completed his or her initial twelve (12) months of full-time employment.
 - (2) The employee must have a prolonged medical condition or the employee's spouse, child, or parent (including step and in-law relationships) must have a prolonged medical condition requiring care or assistance of the employee.
 - (3) The prolonged medical condition requires the employee's absence from work for a minimum of the equivalent of one pay period (2 weeks).
 - (4) Medical evidence must be provided to support the need for leave.
 - (5) The medical condition is not due to:
 - Cosmetic surgery (defined and excluded from coverage by the City's health insurance plan), or any surgery deemed medically unnecessary by the health insurance plan.
 - Injury or illness covered by workers' compensation (or being reviewed or litigated for possible workers' compensation coverage).
 - Treatment for substance abuse due to a positive reasonable suspicion, random, or promotional drug screen on the job.
 - (6) All accrued sick, vacation, holiday, and compensatory leave must be exhausted before an employee is eligible to use shared leave.
 - (7) An employee cannot receive more than the equivalent of six pay periods (twelve weeks) of shared leave per twelve-month period, unless approved by the City Manager due to special extenuating circumstances.
- (d) The following qualifications shall apply for an employee donating leave under this policy.
- (1) The employee must be full-time and have completed his or her initial twelve (12) months of full-time employment in order to donate vacation leave under this policy.

- (2) The donating employee must maintain a combined total of 160 sick and vacation leave hours with a minimum of 80 hours of vacation leave for himself or herself when making a donation.
- (3) The minimum amount an employee can donate to one specific co-worker in a twelve-month period is 8 hours and the maximum is 40 hours.

VI. Section 5. Family and Medical Leaves of Absence

Employees may be entitled to a leave of absence under the Family and Medical Leave Act (FMLA). This policy provides employees information concerning FMLA entitlements and obligations employees may have during such leaves. Any questions concerning FMLA leave should be directed to the Human Resources Director.

- (a) To be eligible for Family and Medical Leave Act (FMLA) leave, an employee must:
 - (1) Have been employed by the City for at least 12 months (need not be continuous); and
 - (2) Have worked at least 1,250 hours during the previous 12-month period (unless absent on military caregiver leave)
- (b) The City provides eligible employees with up to 12 workweeks of unpaid, job-protected leave in a 12-month period for certain family and medical reasons; or up to 26 workweeks of leave for eligible employees to care for a covered service member with a serious illness or injury, as specified in the City's Military FMLA Policy. In general, Military FMLA issues are addressed below in **Section 6. Military and Family Medical Leave Act Policy.**
- (c) Eligible employees can take FMLA leave for the following reasons:
 - (1) Birth of an employee's child.
 - (2) Placement of a child with the employee for adoption or foster care.
 - (3) The employee's own serious health condition including health conditions relating to pregnancy, childbirth and related medical conditions. (**See [e.] below**)
 - (4) To care for the serious health condition of the employee's child, spouse or parent; for these purposes a "parent" can be one acting "in loco parentis," which includes someone actively engaged in the financial or other support of a child, even if not related or formally recognized as a parent, adopted parent, foster parent or legal guardian.
 - (5) To allow the employee spouse, son, daughter, parent or next of kin of a covered service member with a serious injury or illness to take up to 26 weeks of leave within a 12-month period to care for the service member. (This type of leave is available only in a single 12-month period.)

- (6) To allow employees to take up to 12 weeks of leave because of any qualifying event arising out of the fact that a son, daughter, spouse, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
 - (7) Certain family and medical events as specified in the Military FMLA Policy, below.
- (d) FMLA leave for the birth, adoption or placement of a child is available only during the first twelve (12) months after the birth or placement of the child.
 - (e) Generally, a chronic or long-term health condition which results in a period of incapacity of more than three (3) consecutive calendar days and requires multiple visits to a health care provider or a continuing regimen of treatment (e.g., prescription medication, physical therapy) as prescribed by a health care provider, would qualify as a serious health condition under this policy. The supervisor should notify the Human Resources Director of any medical-related absences that exceed or are expected to exceed three (3) days.
 - (f) To determine eligibility, the 12-month period is measured backwards from the date an employee's requested FMLA leave begins.
 - (g) A husband and wife who both work for the City are entitled to a combined total of 12 weeks leave in a 12-month period for the birth, adoption or foster care placement of their child, or to care for a parent with a serious health condition. In the case of service member leave, if both a husband and wife work for the City, they would only be entitled to: (1) a combined total of 26 workweeks for service member care leave; or (2) a combination of 26 weeks for leave for service member care and for care due to the birth, adoption, or placement of a child or the care of a sick parent. (Of these 26 weeks only 12 weeks could be used for care due to the birth, adoption or placement of a child or the care of a qualifying relative.)
 - (h) Any absence for an FMLA purpose, whether paid or not (including Workers' Compensation), automatically will count against the employee's 12-week FMLA allowance if the employee is otherwise eligible and has not exhausted his or her allowance. When an employee is out on FMLA leave as a result of a Workers' Compensation injury, the employee's FMLA leave and Workers' Compensation leave will run concurrently (i.e., Workers' Compensation leave will count against the employee's FMLA leave entitlement).
 - (i) An employee will be required to use all of his or her accrued and unused sick, vacation, and compensatory leave time as allowed under the respective leave policies as a part of his or her twelve (12) weeks of FMLA leave, unless the employee is out on Workers' Compensation leave. Once sick, vacation, and compensatory leave have been exhausted, the balance of the employee's FMLA leave will be unpaid. (Sick leave for the birth of a baby only can be used for the actual period of disability, usually six (6) weeks, unless otherwise verified by the attending physician that the period of disability should be extended.)

- (j) If the need for FMLA leave is planned in advance (expected or foreseeable), the employee must submit a request for leave (Employee Leave Request Form) at least thirty (30) days before his or her leave is expected to begin. If FMLA leave is unexpected, or if the employee has less than thirty (30) days before his or her leave is scheduled to begin, the employee should submit a request for leave (Employee Leave Request Form) as far in advance of the anticipated leave date as possible (and no later than two [2] business days from when the need for leave becomes known to the employee).
- (k) During FMLA leave, the City will maintain health benefits under the same conditions as if the employee had continued working. When the employee is on paid FMLA leave, the City will deduct the employee portion of the benefit premiums as regular payroll deductions. If FMLA leave is unpaid, the employee must make arrangements with the Payroll department to pay the employee portion of the premiums. If premiums are not paid, coverage may lapse.
- (l) An employee who fails to return to work after the expiration of FMLA leave will be required to reimburse the City for the group insurance benefit premiums paid on his or her behalf during the FMLA leave, unless the reason the employee fails to return to work is the continuation or presence of a serious health condition or circumstances beyond his or her control.
- (m) Vacation, sick, and holiday leave and other employment benefits which normally operate on an accrual basis will not accrue during FMLA leave if the leave is unpaid. The employee will not lose any employment benefits that accrued before his or her FMLA leave, and the employee will begin earning these employment benefits again, in accordance with City policy, when he or she returns to work.
- (n) When medically necessary, leave may be taken on an intermittent basis or the employee may work a reduced schedule. Intermittent leave should be scheduled to avoid disruption insofar as is reasonable.
- (o) Employees who request FMLA leave because of their own or a family member's serious health condition must submit a Medical Certification Form, or other documentation from a health care provider which provides the following information to support the leave request: the date on which the serious health condition began; the probable duration of the condition and/or treatment; appropriate facts regarding the condition and/or treatment; a statement that the employee is needed to care for a spouse, parent, or child or that the employee is unable to perform his or job functions; and an estimate of the time required. The City can request a second or third opinion regarding the employee's condition and treatment (at the City's expense).
- (p) Employees requesting an extension of any FMLA leave must provide a new Medical Certification of the need for continued leave.

- (q) Employees absent on medical leave will be required to provide medical certification of their fitness to return to work. To achieve that result, employees will be provided with the essential functions of their job or a Job Description with that information as part of the Designation Notice. Employees failing to provide the fitness-for-duty certification based on these essential job functions cannot resume work until such certification is provided. A Fitness for Duty Form is available from Human Resources.
- (r) If the circumstances of the employee's original FMLA leave request change, (i.e., the employee is able to return to work earlier than expected or will require FMLA leave for longer than originally expected) the employee should notify the City as soon as he or she becomes aware of this change. The City reserves the right to require at least two days notice prior to an employee reporting back to work earlier than the date originally estimated.
- (s) In the sole discretion of the City, any leave that qualifies as FMLA leave may be designated as FMLA leave, regardless of whether all possible obligations are met. For example, the City may designate a leave as FMLA leave without having a specific diagnosis or requiring a complete medical certification or a consultation with a health care provider.
- (t) An employee may be asked to recertify a serious health condition every 30 days (if the employee is absent during that period) for chronic/long-term illness or pregnancy. A recertification may be requested in less than 30 days if:
- Employee asks for extension of leave;
 - Circumstances have changed; or
 - Employer doubts status (e.g., Mon./Fri. absences).
- (u) Employees will be required to have annual medical certifications for their own serious health conditions lasting more than one year, including chronic/lifelong ailments.
- (v) Employees returning to work from FMLA leave will be returned to the same or an equivalent position held prior to the leave, unless the position has ceased to exist because of business necessity. If the employee does not return to his or her original position or an equivalent one as soon as he or she is able, the City will consider the employee to have voluntarily resigned. Acceptance of other employment during FMLA leave will be considered a voluntary resignation.
- (w) Certain "key employees" may not be eligible to be reinstated to the same or equivalent position at the conclusion of their FMLA leave. The City will notify such employees of their "key employee" status and the conditions under which they may be denied reinstatement, if applicable.
- (x) All questions regarding potential FMLA leaves of absence, eligibility, availability, etc. should be directed to the City's Human Resources Director. Leave of Absence Request Forms used for requesting FMLA leave also are available from the Human Resources Department.

VI. Section 6. Military Family and Medical Leave Act Policy

- (a) Under the military Family and Medical Leave Act (FMLA) policy, the City provides eligible employees with:
- (1) Up to 12 workweeks of unpaid, job-protected leave in a 12-month period because of a qualifying exigency; or
 - (2) Up to 26 workweeks of leave for eligible employees within a single 12-month period to care for a covered service member with a serious illness or injury.

Employees using military caregiver leave alone or military caregiver leave in combination with traditional FMLA-qualifying leave, or qualifying exigency leave, may take up to 26 workweeks of leave during any single 12-month period. The amount of leave taken for traditional or qualifying exigency is limited to a total of 12 workweeks; the difference may be military caregiver leave. Any combination of FMLA leave may not exceed the maximum limit of 26 workweeks. The 26 workweeks run on a separate FMLA year that commences with the first day leave is taken and can run until the end of the 12-month period. Unused military caregiver leave is forfeited at the end of the 12-month period.

- (b) Unless specifically stated otherwise, procedures, notices and rights and responsibilities stated in **Section 5. Family and Medical Leaves of Absence** for traditional FMLA apply to military FMLA.
- (c) To be eligible for leave under the military Family and Medical Leave Act provisions, an employee must be eligible for traditional FMLA leave and either is:
- (1) The parent, spouse, son or daughter of a service member who is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation; or
 - (2) The spouse, son, daughter, parent or next of kin of a covered service member undergoing medical treatment, recuperation, or therapy, who is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.
- (d) Eligible employees can take leave for any of the following reasons:
- (1) Because of any qualifying exigency arising out of the fact that a son, daughter, spouse, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the Armed Forces in support of a contingency operation.
 - (2) To care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin (nearest blood relative) of the covered service member. This leave does not cover relatives of veterans or service members on the permanent disability retired list.

- (e) A covered service member is one who is undergoing medical treatment, recuperation or therapy, who is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness. The serious injury or illness is covered if it was incurred while in the line of duty and renders member medically unfit to perform his/her military duties. The City will rely on authorized health care providers or designated officials in the Department of Defense to determine whether the service member is deemed a covered service member.
- (f) If both a husband and wife work for the City, in the case of military FMLA leave, and in a manner similar to the rule applying a 12-workweek limitation under traditional FMLA, the spouses together would be entitled to a maximum of 12 workweeks for leave for any qualifying exigency leave in combination with other 12-workweek traditional FMLA care due to the birth, adoption, or placement of a child or the care of a sick parent.
- (g) With regard to the military caregiver leave, a husband's and wife's leave is limited a combined total of 26 workweeks for military caregiver leave alone. The same 26-workweek limitation applies when in combination with any other 12-workweek FMLA leave. With recognition of the exception for caring for a seriously ill child that expands the 12 workweeks to 24 workweeks for the mother and father together, family members would be restricted to use only 12 weeks for care due to the birth, adoption, or placement of a child or the care of a qualifying relative.
- (h) When the need for leave because of a qualifying exigency related to a family member's active duty is "foreseeable," the employee should provide notice as soon as practicable, regardless of how far in advance such leave is foreseeable. When an employee becomes aware of a need for FMLA leave less than 30 days in advance, it should be practicable for the employee to provide notice of the need for leave either the same day or the next business day. As soon as practicable means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case.
- (i) When military caregiver leave is requested, as with traditional FMLA, an employee must provide the City at least 30-days advance notice before FMLA leave is to begin if the need for the leave is foreseeable. If 30-days notice is not practicable, notice must be given as soon as practicable.
- (j) Employees will receive the same eligibility notice and notice of rights and responsibilities when requesting military FMLA leave as is given under traditional FMLA. The City will provide employees who request military FMLA leave with the appropriate certification form for Exigency Leave or Military Caregiver Leave at this time. The Eligibility Notice/Rights and Responsibilities Notice is available from Human Resources.

- (k) The first time an employee requests leave because of a qualifying exigency, the employee must provide a copy of the covered military member's active duty orders or other documentation issued by the military indicating that the covered military member is on active duty or called to active duty status in support of a contingency operation, and the dates of the covered military member's active duty service. The employee will need to supply such documentation again only for a different active duty or call to active duty status of the same or a different covered military member.
- (l) A Certification for leave taken because of a qualifying exigency is available from Human Resources; it includes a list of approved qualifying exigencies. A completed Form is required to be granted this Leave.
- (m) The City also may contact an appropriate unit of the Department of Defense to request verification that a covered military member is on active duty or call to active duty status, without the employee's permission.
- (n) The City may require confirmation of the employee's relationship with the service member at any time in this process.
- (o) When an employee takes leave to care for a covered service member with a serious injury or illness, the City will require the employee to obtain a certification completed by an authorized health care provider of the covered service member. A Certification for Military Caregiver Leave is available from Human Resources. Except as stated below, a completed Form is required to be granted this Leave.
- (p) In lieu of any certification, the City will accept "invitational travel orders" (ITOs) or "invitational travel authorizations" (ITAs) issued to any family member to join an injured or ill service member at his or her bedside, regardless of whether the employee is named in the order or authorization. An ITO or ITA is sufficient certification for the duration of time specified in the ITO or ITA. During that time period, an eligible employee may take leave to care for the covered service member in a continuous block of time or an intermittent basis. The City may seek authentication and clarification of the ITO or ITA but will not seek a second or third opinion or a recertification during the period of time in which leave is supported by an ITO or ITA. If an employee will need leave to care for a covered service member beyond the expiration date specified in an ITO or ITA, the City will request that the employee have one of the authorized health care providers complete a certification form for the additional time. Timelines designated under traditional FMLA policy will apply.
- (q) In all instances in which certification is requested, it is the employee's responsibility to provide the City with complete and sufficient certification and failure to do so may result in the delay or denial of FMLA leave.
- (r) In certain cases, leave may be taken on an intermittent basis or the employee may work a reduced schedule. Intermittent leave should be scheduled to avoid disruption insofar as is reasonable.

VI. Section 7. Leave Without Pay

A full or part-time employee may be granted a leave of absence without pay for a period of up to six (6) months by the City Manager. The leave may be used for reasons of personal disability after both sick leave and vacation have been exhausted; sickness or disability of immediate family members; continuation of education; special work that will permit the City to benefit by the experience gained or the work performed; or for other reasons deemed justified by the City Manager.

The employee shall apply in writing to the supervisor for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the City Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay. If the employee decides not to return to work, the supervisor shall be notified immediately. Failure to report at the expiration of the leave of absence, unless an extension has been requested, shall be considered a resignation.

VI. Section 8. Adverse Weather / Hazardous Conditions

The City has responsibility for a variety of emergency services. Adequate staff is required to operate these critical services seven (7) days per week and twenty four (24) hours per day in all weather. Department heads should designate which employees are in critical positions required to report to work regardless of weather or other hazardous conditions.

The adverse weather/hazardous conditions policy is established to be as fair as possible to all employees applying the following principles:

- Maintain adequate staffing at all times of emergency services;
- Provide for as much safety as possible for all employees in traveling to and from work in hazardous conditions; and
- Not pay regular salaries to some employees for not working when others are required to be at work.

City offices and departments shall remain open for the full scheduled working day unless authorization for closing or other schedule deviation is received from the City Manager's office. The Manager will consider the hazard of driving conditions and other relevant factors in determining whether to close City offices. All departments and offices will be given sufficient advance notice of any authorized closing of noncritical City functions. Upon authorizing a closing, non-critical staff may use vacation, earned compensatory time, or time without pay for the un-worked hours. Employees who leave work before a regular or an official early closing time, as well as employees who report for work late or do not report for work because of hazardous conditions may also use earned vacation and/or compensatory leave for days or hours not worked. With the department head's approval, an employee may also flex his or her schedule to make up the time during the week that the absence occurs. Leave without pay and re-assignment to assist another department in cases of emergencies also are options.

VI. Section 9. Parental School Leave

A City employee who is a parent, guardian, or person standing in loco parentis (in place of a parent) may take up to four (4) hours of unpaid leave annually to involve him or herself in school activities of his or her child(ren). This leave is subject to the following three conditions:

- (a) The leave must be taken at a time mutually agreed upon by the employee and the City;
- (b) The City may require the employee to request the leave in writing at least forty-eight (48) hours prior to the time of the desired leave;
- (c) The City may require written verification from the child's school that the employee was involved at the school during the leave time.

Paid leave (vacation time) taken by an employee to attend to school activities of his or her child shall count toward the fulfillment of this provision by the City.

VI. Section 10. Workers' Compensation Leave

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick leave, vacation, or compensatory time during the initial waiting period. An employee on workers' compensation leave shall not have his or her employer provided benefits interrupted. Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit. If the disability period exceeds twenty-one (21) days, then the seven (7)-day waiting period is nullified. (See Article VI. Section 5. Family and Medical Leaves of Absence)

VI. Section 11. Military Leave and Reinstatement

The City will fully comply with the requirements of USERRA and other related federal regulations.

- (a) Regular employees who are members of the National Guard or an Armed Forces Reserve organization shall be allowed two calendar weeks per year for military leave without pay. On rare occasions due to annual training being scheduled on a federal fiscal year basis, an employee shall be granted an additional ten days of military leave during the calendar year. If the compensation received while on military leave is less than the salary that normally would have been earned during the same period as a City employee, the City will pay the employee partial compensation equal to the difference. The effect will be to maintain the employee's salary at the normal level during this period. The employee may elect to use vacation leave in lieu of military leave in order to receive compensation in full from both employers. If such military duty is required beyond the two weeks, the employee may take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave, the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the City during this period; with the exception of retirement and 401(k) contributions if leave is without pay. Employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act.
- (b) An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee:
 - (1) Applies for reinstatement within ninety days after release from military service; and
 - (2) Is able to perform the duties of the former position or similar position; or
 - (3) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of the military service, but is able to perform the duties of another position in the service of the City. In this case the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

VI. Section 12. Civil Leave

A City employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the City any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty.

VI. Section 13. Educational Leave

In order to support continued education beyond high school, an employee who wishes to undertake a job-related course of study may be allowed to pursue this on his or her regular duty schedule as long as the needs of the department are met, and as long as classes are not provided outside of work hours. In accordance with the Fair Labor Standards Act, if this education or training is not required, then hours outside the duty hours would not be counted as hours worked. The employee must request prior approval in writing to his or her department head, and final approval must be made by the City Manager. Employees should refer to the City's Educational Incentive Pay Plan for more information on these benefits.

ARTICLE VII. EMPLOYEE BENEFITS

VII. Section 1. Insurance Benefits

The City shall provide the following group insurance benefits for its full-time employees:

- (a) Medical insurance - after a thirty (30)-day waiting period.
- (b) Dental insurance - after a thirty (30)-day waiting period.
- (c) Life insurance - after a thirty (30)-day waiting period;
- (d) Vision insurance - after a thirty (30)-day waiting period.

Based on the availability of funds, all efforts shall be made by the City to provide premium payments in full on the employee's behalf.

Each employee shall have the option of purchasing a dependent or family plan of medical, dental, and vision insurance at his or her own expense. Information concerning cost and benefits shall be available to all employees through the Human Resources Department.

Other City-approved, supplemental insurance benefits may be available through payroll deduction at the employee's expense. Employees who purchase dependent or supplemental insurance coverage have the option of participating in IRS Code Section 125 benefits.

VII. Section 2. Social Security

The City, to the extent of its lawful authority and power, extends Social Security benefits for its eligible employees and eligible groups and classes of such employees.

VII. Section 3. Retirement System Membership

Each employee who is appointed to a regularly established position and who is expected to work for the City more than one thousand (1,000) hours annually shall join the North Carolina Local Government Employees' Retirement System (NCLGERS) on the first day of employment as a condition of employment as defined by the retirement system.

VII. Section 4. NCLGERS: Death Benefit

Employees enrolled in the NCLGERS are covered by a death benefit as prescribed by the plan after one (1) year as a contributing member.

VII. Section 5. Retiree Insurance Benefits

The City will continue to provide medical insurance for any full-time employee including the City Manager who retires with thirty (30) years of creditable service as recognized by the NCLGERS at least ten (10) years of which must be in service with the City of Washington until such employee becomes eligible for Medicare.

Medical insurance will be continued for two (2) years for an employee who retires on disability through the NCLGERS and has completed at least five (5) years of service with the City of Washington but does not qualify or pursue Social Security benefits. Medical insurance will be continued for employees who demonstrate that they have applied for Social Security disability benefits within one (1) month after NCLGERS disability retirement approval and are approved for Social Security disability within six (6) months. In such situations, coverage will continue until the retiree is eligible for Medicare (which at the time this policy was adopted, was twenty-four (24) months after disability benefits begin).

Retiree medical insurance coverage continued under this policy shall be at the same share as provided for a regular employee.

Retirees may have the option of purchasing dental, life, and/or vision insurance or a dependent or family plan of medical, dental, and/or vision insurance at their own expense provided it is allowed by City's group policy carrier. In order for the dependent of a retiree to qualify as a dependent for retiree coverage he/she must have been covered under the plan for a minimum of twelve (12) months as a dependent of the employee prior to his/her retirement. Retiree coverage must be selected within thirty (30) days of the effective date of retirement. Retirees and any dependents covered will be dropped from the insurance if their premium payments are one month delinquent.

VII. Section 6. Supplemental Retirement Benefits: 401(k) and Deferred Compensation 457

The City provides supplemental retirement plan options for its full-time and part-time employees, as well as elected and appointed officials. Each qualified law enforcement officer shall receive 401(k) benefits as prescribed by the North Carolina State Law and beginning on the first day of employment. Employees who are members of the NCLGERS, including the City Manager, have the option of participating in the 401(k) Plan. All City employees, including full-time, part-time, and elected or appointed officials, have the option of participating in the Deferred Compensation Plan (457). The City may make an employer contribution depending on the availability of funds.

VII. Section 7. Law Enforcement Special Separation Allowance

The City provides a monthly separation allowance to qualified retired law enforcement officers in accordance with North Carolina State Law (GS 143-166.42).

- (a) Eligibility and continuation of these benefits are subject to the following conditions:
 - (1) The officer shall have completed thirty (30) or more year of creditable service, or have attained fifty five (55) years of age and completed five (5) or more years of creditable service; and
 - (2) Not have attained sixty two (62) years of age; and
 - (3) Have completed at least five (5) years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. Gen. Statutes 143-166.41(a) (3) and 143-166.41(b).
 - (b) Termination of these benefits happens:
 - (1) At death;
 - (2) On the last day of the month prior to which the officer attains sixty two (62) years of age; or
 - (3) Upon the first day of re-employment by a local government in North Carolina in any capacity.
- The City may, however, employ retired officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System and doing so shall not cause payment to cease to those officers under these benefits.
- (c) Any officer who is entitled to receive a special separation allowance from the City shall, within ten (10) days of any change in his/her employment status, report the same to the City Manager or Human Resources Director.
 - (d) Once this benefit is terminated, the officer shall not be entitled to further special separation allowance unless he/she shall otherwise once again meet the requirements of section (a) thereof.

VII. Section 8. Workers' Compensation

All employees of the City (full-time, part-time, temporary, and volunteer workers) are covered by the North Carolina Workers Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisor or department head at the time of injury in order that appropriate action may be taken at once. No employee will be retaliated against in any way for filing a workers' compensation claim in good faith or for participating in the workers' compensation process. Infection with smallpox, infection with vaccinia (the virus in smallpox), or any adverse medical reaction resulting from the employee receiving in employment vaccination against smallpox pursuant to the Homeland Security Action Section 304 will be treated the same as any other illness compensable under workers compensation.

VII. Section 9. Retiree Separation Benefit

In order to recognize the retiring employee who has served the City with an admirable work record throughout his or her years of service, and who qualifies for a monthly retirement benefit through the NCLGERS at the time of separation, a cash amount of ten dollars (\$10.00) per year of service will be allotted towards the purchase of a separation gift of appreciation. It will be the responsibility of the department head to see that an appropriate gift is chosen and awarded; however, the department head may solicit help from anyone in a position to assist in the gift selection.

VII. Section 10. Unemployment Compensation

In accordance with Public Law 94-566 and subsequent amendments, local governments are covered by unemployment insurance. City employees who separate from City service may apply for benefits through the local Employment Security Commission office, where a determination of eligibility will be made.

VII. Section 11. Tuition Assistance Program

Full-time employees who have completed their initial probationary period may apply for tuition reimbursement for courses taken on their own time which will improve their skills for their current job or prepare them for promotional opportunities with the City. Tuition and books are eligible expenses for up to one hundred percent (100%) reimbursement, depending on availability of funds. Satisfactory completion of the course with a grade C or better will be required for reimbursement. This policy applies when an employee takes a course related to their job, on their own, not when the employee is sent by the City to a particular school or seminar. Requests for tuition assistance shall be submitted to the employee's Department Head prior to course registration and are subject to review and approval of the City Manager-subject to availability of funds.

VII. Section 12. Wellness Program

Activities and programming will be provided to all employees to encourage healthy lifestyle choices in an effort to increase employee morale, productivity, and an overall healthier workforce.

VII. Section 13. Employee Assistance Program

All employees, spouses, and dependent family members who reside in the employee's household are eligible for benefits from the City's Employee Assistance Program (EAP). The EAP is a benefit to help individuals resolve job-related, personal, and family problems through free confidential counseling sessions. The EAP is subject to annual review and funding.

VII. Section 14. Car Allowance / Travel Bonus

- (a) **City Manager.** The City Council may provide a monthly flat amount of car allowance for the City Manager in lieu of providing a city-owned vehicle to conduct city business. The allocated car allowance will cover all mileage expenses for City business within a 150 mile radius (300 miles round trip) of the City. Travel beyond the 150 mile radius will be reimbursed in accordance with the City's travel policy. This allowance will be reported on the City Manager's W-2 form.

- (b) **Department Heads.** With the exclusion of department heads for whom the City provides a City-owned vehicle, department heads may be provided a travel bonus subject to annual approval by the City Council. Department heads receiving the travel bonus will not be eligible for reimbursement of mileage expenses within a specified mile radius of the City in accordance with the provisions of the bonus. Travel beyond the specified mile radius will be reimbursed in accordance with the City's travel policy.

ARTICLE VIII. SEPARATION AND RE-EMPLOYMENT

VIII. Section 1. Types of Separation

All separations of employees from positions in the service of the City shall be designated as one of the following types and shall be accomplished in the manner indicated:

- (a) **Resignation:** An employee may resign by submitting the reasons for the resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two (2) weeks unless the notice is waived upon recommendation of the Department Head and approved by the City Manager

Three consecutive days of absence without contacting the immediate supervisor or Department Head may be considered to be a voluntary resignation.

The City Manager may negotiate a resignation with an employee when it is determined to be in the best interest of the City. Such negotiated resignation may include a severance package consisting of a combination of salary, benefits and/or accumulated leave (vacation, compensatory, etc.).

- (b) **Reduction in Force.** In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, qualifications and skills, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks notice of the anticipated action. No regular employee shall be separated because of a reduction in force while there are temporary or probationary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee. **(See Section 2 below)**
- (c) **Disability.** The City will comply with the Americans with Disabilities Act and will make all responsible efforts to provide reasonable accommodation to employees who may be or become disabled. An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the City. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the City Manager. The City may require an examination at the City's expense, performed by a physician of the City's choice.
- (d) **Death.** Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of a deceased employee.
- (e) **Dismissal.** An employee may be dismissed in accordance with the provisions and procedures of **Article IX.**
- (f) **Retirement.** An employee, who meets the conditions set forth under the provisions of North Carolina Local Government Employees' Retirement System, may elect to retire and receive all benefits earned under the retirement plan.

VIII. Section 2. Reduction in Force

- (a) **Policy Statement.** The City recognizes that there are situations that occur which require positions to be redefined or reduced in number. These situations include shortage of funds or work, program shifts, reorganization or consolidation, or other changes as determined by management. It shall be management's (City Manager and department heads) discretion and responsibility to determine which positions shall be eliminated and/or which staff members will be laid off.
- (b) **Procedures.**
- (1) Determination of reductions. The determination of positions to be eliminated or employees subjected to lay off shall be based on consideration of the following:
- Organizational needs.
 - Employees' qualifications and past performance. This includes evaluating not only an incumbent's qualifications and performance, but also considers the qualifications and performance of others within the organization. The individual(s) selected for lay off may or may not be the incumbent of the position to be eliminated.
 - Length of service.
- (2) Lay Off Avoidance. The City will take several steps to avoid layoffs and, with the employee's concurrence and cooperation, assist employees who are targeted to lose their current employment to locate other employment within the organization. These efforts are described below:
- The elimination of current or known future vacancies if the position(s) can be eliminated or held vacant long enough to achieve the required goals without unduly harming the delivery of non-targeted services.
 - Where possible, employees whose performance is in good standing and who have been targeted for separation, will be given the opportunity to interview for non-targeted position vacancies, if basic qualifications are met, without competition from other potential applicants (except other employees so identified). The hiring official is under no obligation to select the employee but may do so without advertising if the employee is an acceptable choice.
 - To create vacancies in identified positions, employees (including those not occupying such positions) may be required to accept transfers to other positions for which they are qualified. Such movement will be the prerogative of departmental or citywide

management. This movement enhances our ability to match the backgrounds of displaced employees into existing positions.

(c) **Career Transition Assistance.**

- (1) The City will assist displaced workers to the fullest extent possible in locating training and employment opportunities.
- (2) In any privatization effort, the City will negotiate to the fullest extent possible, for the continued employment of all who are involved in a City function with the new private contractor.

(d) **Severance Pay.**

A full time regular employee whose employment is being terminated due to reduction in force shall be eligible for a one time, lump sum seniority based severance payment based on the following schedule provided all of the following qualification criteria are met.

- (1) The employee has completed at least one (1) year of full-time continuous service with the City in a regular position as of the separation date;
- (2) The employee is not eligible for any of the Local Governmental Employees' Retirement System (LGERS) options;
- (3) The employee has not refused alternate employment with the City;
- (4) The employee has not refused a reasonable employment offer with a contractor (in the event of a negotiated privatization); and
- (5) The employee executes a Waiver of Liability.

Note: For purpose of determining severance eligibility, alternate employment and a reasonable offer of employment with a contractor (in the event of a negotiated privatization) shall be defined as one in which the employment offer does not result in reduction in pay and benefits of more than fifteen percent (15%).

<u>Years of Continuous Service</u>	<u>Severance Amount (on Base Salary)</u>
1.00 to 4.99 years	2 weeks
5.00 to 9.99 years	4 weeks
10.00 to 14.99 years	6 weeks
15.00 to 19.99 years	8 weeks
20 years or more	10 weeks

Any period covered by severance pay shall not be credited as a period of retirement service or as work time for credit towards receiving continuing group insurance benefits.

VIII. Section 3. Re-Employment

An employee who resigns while in good standing or who is separated due to reduction in force may be re-employed at a later date with the approval of the department head and the City Manager.

An employee who is re-employed shall begin his or her service as a new employee with no continuation of previously accrued benefits with the exception of sick leave which may be eligible for reinstatement **(See Article VI. Section 3.)**.

Another exception is made when an employee is separated due to reduction in force and subsequently re-employed with the City within one (1) year of the date of separation. In this case the employee shall begin earning vacation and sick leave at the same rate as he/she was earning on the date of separation.

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

IX. Section 1. Disciplinary Action for Unsatisfactory Job Performance

An employee may be placed on disciplinary suspension, demoted or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or dismissal must be approved by the City Manager prior to giving final notice to the employee.

IX. Section 2. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the Department Head or the City Manager.

Examples of unsatisfactory job performance include, but are not limited the following:

- (a) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- (b) Careless, negligent, or improper use of City property or equipment;
- (c) Physical or mental incapacity to perform duties after reasonable accommodation;
- (d) Discourteous treatment of the public or other employees;
- (e) Absence without approved leave;
- (f) Improper use of leave privileges;
- (g) Failure to report for duty at the assigned time and place;
- (h) Failure to complete work within time frames established in work plan or work standards;
- (i) Failure to meet work standards over a period of time;
- (j) Failure to follow the chain of command to address work-related issues.

IX. Section 3. Procedures for Addressing Unsatisfactory Job Performance

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor shall meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions shall be noted in the employee's file by the supervisor.

An employee whose job performance is unsatisfactory over a period of time should normally receive at least two documented warnings, one of which may be the final written warning, from the supervisor before disciplinary action resulting in dismissal is taken by the City Manager. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended and the time limits set. If the employee's performance continues to be unsatisfactory, the supervisor should use the following steps:

- (a) A final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
- (b) If performance does not improve, a written recommendation should be sent to the City Manager for disciplinary action such as suspension, demotion, or dismissal.

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three (3) days or twenty four (24) hours for non exempt employees. Suspensions for exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status.

Demotions are appropriate when the employee has demonstrated inability to perform successfully in the current job, but shows promise and commitment to performing successfully in a lower level job. If no other options are available, dismissal is appropriate.

If after suspension or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed.

IX. Section 4. Disciplinary Action for Detrimental Personal Conduct

With the approval of the City Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to City service in order to 1) avoid undue disruption of work; 2) protect the safety of persons or property; or 3) for other serious reasons.

IX. Section 5. Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious detrimental nature that the function of the City may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of any government may be or have been violated.

Examples of detrimental personal conduct include, but are not limited to, the following:

- (a) Fraud or theft;
- (b) Conviction of a felony or the entry of a plea of *no contest* thereto;
- (c) Falsification of records for personal profit, to grant special privileges, or to obtain employment;

- (d) Willful misuse or gross negligence in handling of City funds or personal use of equipment or supplies;
- (e) Willful or wanton damage or destruction to property;
- (f) Willful or wanton acts that would endanger the lives and property of others;
- (g) Possession of unauthorized firearms or other lethal weapons on the job or City premises;
- (h) Brutality in the performance of duties;
- (i) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken with the limits set by a physician as long as medically necessary;
- (j) Engaging in incompatible employment or serving a conflicting interest;
- (k) Request or acceptance of gifts in exchange for favors or influence;
- (l) Engaging in political activity prohibited by this Policy;
- (m) Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status;
- (n) Harassment of an employee(s) and/or the public with threatening or obscene language and/or gestures; or
- (o) Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work.

IX. Section 6. Pre-dismissal Conference

Before dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the City Manager, Human Resources Director or Department Head will conduct a pre-dismissal conference. Prior to the pre-dismissal conference the department head shall provide the employee with a written notice, which will include the nature of the proposed action, its recommended effective date, the reasons for the action, and a date and time for a pre-dismissal conference. At this conference, the employee may present any response to the proposed dismissal to the City Manager or Department Head. The City Manager or Department Head will consider the employee's response, if any, to the proposed dismissal, and will, within three (3) working days following the pre-dismissal conference (three [3] consecutive days for fire shift personnel), notify the employee in writing of the final decision. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights.

IX. Section 7. Non-Disciplinary Suspension

During the investigation, hearing, or trial of an employee on any criminal charge or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, when suspension would, in the opinion of the Department Head or City Manager, be in the best interest of the City, the Department Head or City Manager may suspend the employee for part or all of the proceedings as a non-disciplinary action. In such cases the City Manager may:

- a) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension; or
- b) Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

Full recovery of pay and benefits for the period of non-disciplinary suspension may be authorized by the City Manager if the suspension is terminated with full reinstatement of the employee.

IX. Section 8. Exempt Employee Suspension

In the event of suspension of a Fair Labor Standards Act (FLSA) exempt employee, special consideration must be made involving employee pay in order to prevent jeopardizing the employee's exempt status under the Fair Labor Standards Act.

Reduction in vacation leave may be used in lieu of any adverse action against an exempt employee that would jeopardize the employee's exempt status under the Fair Labor Standards Act.

FLSA exempt employees, however, temporarily may be suspended from all duties and responsibilities and may receive no compensation during the suspension when the suspension is:

- (a) Due to violation of a safety rule of major significance, or
- (b) For an infraction of workplace conduct rule(s), or
- (c) In increments of full week(s).

Any suspension without pay for an exempt employee as described in (a) and (b) above shall be in full-day increments.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

X. Section 1. Policy

It is the policy of the City to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from City service.

X. Section 2. Grievance Defined

A grievance is a claim or complaint by a current or a former employee based upon an event or condition, which affects the circumstances under which an employee works, allegedly cause by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

X. Section 3. Purposes of the Grievance Procedure

The purposes of the grievance procedure include, but are not limited to:

- (a) Provide employees with a procedure by which their complaints are considered promptly and fairly, and without reprisal;
- (b) Encourage employees to express themselves about the conditions of work which affect them as employees;
- (c) Promote better understanding of policies, practices, and procedures which affect employees;
- (d) Increase employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures;
- (e) Increase the sense of responsibility exercised by supervisors in dealing with their employees;
- (f) Encourage conflicts to be resolved between employees and supervisors who must maintain an effective future relationship, and therefore, encourage conflicts to be resolved at the lowest level possible of the chain of command; and
- (g) Create a work environment free of continuing conflicts, disagreements, and negative feelings about the City or its leaders, thus freeing up employee motivation, productivity, and creativity.

X. Section 4. Grievance Procedure

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered as the maximum unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension or demotion must be approved by the Department Head or City Manager and rescinding dismissal must be approved by the City Manager before the decision becomes effective.

- (a) **Informal Resolution.** Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective Department Head as a resource to help resolve the grievance.
- (b) **Step One.** If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor in writing. The grievance must be presented within fifteen (15) calendar days of the event or fifteen (15) calendar days of learning of the event or condition. The supervisor shall respond to the grievance within the (10) calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the City in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

The response from the supervisor for each step in the formal grievance process shall be in writing and signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Human Resources Director.

- (c) **Step Two.** If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal, in writing, to the appropriate Department Head within ten (10) calendar days after receipt of the response from Step One. The Department Head shall respond to the appeal, stating the determination of decision within ten (10) calendar days after receipt of the appeal.
- (d) **Step Three.** If the grievance is not resolved to the satisfaction of the employee at the end of Step Two, the employee may appeal, in writing, to the City Manager within ten (10) calendar days of receipt of the response from Step Two. The City Manager shall respond to the appeal, stating the determination of decision within ten (10) calendar days after receipt of the appeal. The City Manager's decision shall be the final decision. The City Manager shall notify the City Council of any impending legal action.
- (e) **City Manager.** When a grievance is filed by a Department Head or other employee where the City Manager has been significantly involved in determining disciplinary action, including dismissal, the City may, but is not required to, obtain a neutral outside party to either;

- (1) Provide mediation between the grieving department head or employee and the City Manager; or
- (2) Consider an appeal and make recommendations back to the City Manager concerning the appeal. Such parties might consist of human resources professionals, attorneys trained in mediation, mediators, or other parties appropriate to the situation.

The City Manager's decision shall be the final decision. The City Manager shall notify the City Council of any impending legal action.

X. Section 5. Role of the Human Resources Director

Throughout the grievance procedure, the roles of the Human Resources Director shall be as follows:

- (a) To advise parties (including employee, supervisors, and City Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
- (b) To be the clearinghouse for information and decisions in the matter including maintaining files of all grievance documents;
- (c) To give notices to parties concerning timetables of the process, etc.;
- (d) To assist employees and supervisors in drafting statements;
- (e) To facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and
- (f) To assist in the location of mediation or other resources as needed.

X. Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination and/or Harassment

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, political affiliation, or non-job related handicap), he or she has the right to appeal such action using the grievance procedure in **Article X. Section 4.** above. While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the Human Resources Director or City Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty (30) calendar days of the alleged discriminatory action, but may appeal for up to six (6) months following the action. **(See Article V. Section 9.)**

ARTICLE XI. PERSONNEL RECORDS

XI. Section 1. Public Information

In compliance with GS 160A-168, the following information with respect to each City employee is a matter of public record:

- a) Name;
- b) Age;
- c) Date of original employment or appointment to the service;
- d) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the City has the written contract or a record of the oral contract in its possession;
- e) Current position;
- f) Title;
- g) Current salary;
- h) Date and amount of each increase or decrease in salary with the City;
- i) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with the City;
- j) Date and general description of the reasons for each promotion with the City;
- k) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the City. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the City setting forth the specific acts or omissions that are the basis of the dismissal; and
- l) The office to which the employee is currently assigned.

Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the City Council may adopt.

For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the City.

XI. Section 2. Access to Confidential Records

All information contained in a City employee's personnel file, other than the information mentioned above is confidential and shall be open to inspection only in the following instances:

- (a) The employee or his/her duly authorized agent may examine all portions of his/her personnel file, except
 - (1) Letters of reference solicited prior to employment; and
 - (2) Information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- (b) A licensed physician designated in writing by the employee may examine the employee's medical record.
- (c) A City employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (d) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- (e) An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the City official having custody of the personnel records to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- (f) An employee may sign a written release, to be placed in his/her personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- (g) The City Manager, with concurrence of the City Council, may inform any person of the employment or non employment, promotion, demotion, suspension, or other disciplinary action, reinstatement, transfer, or termination of a City employee and the reasons for that personnel action. Before releasing the information, the City Manager shall determine in writing that the release is essential to maintaining public confidence in the administration of City services or to maintaining the level and quality of City services. This written determination shall be retained in the office of the City Manager or the City Clerk, and is a record available for public inspection, and shall become part of the employee's personnel file.

XI. Section 3. Personnel Actions

The Human Resources Officer, with the approval of the City Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the City Manager, normally in the Human Resources office. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents.

XI. Section 4. Records of Former Employees

The provisions for access to records apply to former employees as they apply to present employees.

XI. Section 5. Remedies of Employees Objecting to Material in File

An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. The employee may seek removal of such material in accordance with established grievance procedures.

XI. Section 6. Penalties for Permitting Access to Confidential Records

Section 160A-168 of the General Statutes provides that any public official or employee who knowingly, willfully and with malice permits any person to have access to information contained in a personnel file, except as permitted by general statute, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the General Statutes.

XI. Section 7. Examining and/or Copying Confidential Material Without Authorization

Section 160A-168 of the General Statutes of North Carolina provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the General Statutes.

XI. Section 8. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5, without the consent of the N.C. Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Chapter 132-3 of the General Statutes.