



CITY OF ASHEBORO EMPLOYEE POLICIES AND PROCEDURES MANUAL

Promulgated by the city manager and originally approved by resolution by the Asheboro City Council on the 4th day of March 2004, and most recently revised with an effective date of October 1, 2025.

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ARTICLE I: UNIFIED HUMAN RESOURCES SYSTEM

SECTION 1: ADMINISTRATION

The city manager shall have the final responsibility for the administration of employee policies and procedures. In addition, each supervisor and manager of the city has an affirmative duty to enforce the employee policies and procedures.

SECTION 2: HUMAN RESOURCES DEPARTMENT

The human resources department shall be under the direct supervision of the human resources director. The office shall have as its primary responsibility the maintenance of all personnel records, recruiting, screening, and assisting division/departments with hiring new employees, and advising employees of all policies, benefits and procedures.

SECTION 3: DEFINITIONS

Full-time Employee/Position. A position in which the duties and responsibilities are required on a continuous basis for an indefinite duration requiring 37.5 or more hours of work per week from an individual. Full-time regular employees are eligible to receive all city offered benefits. Furlough and authorized leave-without-pay do not interrupt continuous employment for purposes of this section.

Part-time Position/Employee. A position in which the duties and responsibilities are required on a continuous basis for an indefinite duration requiring part-time hours averaging less than 26 hours per week. A part-time employee averaging greater than 19.23 hours per week (1,000+ hours per year) is eligible to and **must** participate in the North Carolina Local Governmental Employees' Retirement System (NCLGERS). Any part-time employee working more than 1000 hours in a 12-month period is also eligible to participate in the North Carolina 401(k) and North Carolina 457 Deferred Compensation retirement plans. No other benefits are offered.

New Probationary Employee/Position. An employee hired into a full-time or part-time position who has not yet completed the initial probationary period of employment. Reference to "regular employees" or "regular positions" should not be construed as a right or a contract to perpetual funding or employment with the city.

Regular Employee/Position. All full-time and part-time employees who have successfully completed their initial probationary period shall be considered regular employees.

Seasonal Recreational Employees. "Seasonal Recreational employees" are those who are employed in a recreational establishment in an interim position for less than six (6) full months in any one calendar year. As a matter of standard practice, the city will not maintain an employee in a position of employment that is classified as seasonal recreational for a period of time in excess of four (4) months consecutive calendar months during a calendar year. Seasonal employees are exempt from Fair Labor Standards Act overtime requirements and this manual's Employment of Relatives requirement.

SECTION 4: SUPPLEMENTARY POLICIES

Any and all municipal/departmental policies that are not contained herein and that impact the uniform human resources system administered by the City of Asheboro shall be subordinate to the policies found in this manual. In the event of a conflict, the policies found in the City of Asheboro Employee Policies and Procedures Manual shall control. Divisions/departments may develop supplemental policies and procedures to meet their unique personnel requirements. Such supplemental policies must be approved by the human resources director and the city manager. By way of illustration and not limitation, division/department leadership teams may develop, subject to the written approval of the human resources director and the city manager, financial incentives that are offered, in addition to the compensation provided in accordance with Article III of this manual, for the purpose of incentivizing potential or current employees to enhance their education, skills, and abilities in a manner found by the city management team to facilitate excellence in the provision of municipal services.

SECTION 5. EMPLOYMENT AT WILL

The policies and procedures set forth in this manual do not entitle any person to be employed or remain employed by the City of Asheboro. Employees of the City of Asheboro are subject to the employment at will doctrine.

SECTION 6. EQUAL EMPLOYMENT OPPORTUNITY

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 age, sex, race, color, religion, non-job-related disability, genetic information, national origin, or political affiliation. Discrimination because of past, present, or future military service will not be tolerated and is expressly prohibited in the areas of initial employment, retention in employment, promotion, or the benefits of employment.

SECTION 7. WORKPLACE HARASSMENT PREVENTION POLICY

Harassment of any employee in the workplace by management (including elected and appointed public officials as well as division and department heads), supervisory personnel, co-workers, or nonemployees (including contractors, vendors, or customers) on the basis of race, color, religion, sex (including pregnancy, gender identity, transgender status, and sexual orientation), national origin, age, disability, genetic information, veteran status, or other characteristic protected by applicable law is a form of discrimination that violates the law and city policy. Such harassment is prohibited and will not be tolerated. No employee is immune from this policy.

If you believe that you are being or have been subjected to such harassment, you must immediately report the perceived harassment according to the reporting procedure described below. All reports of perceived unlawful harassment will be investigated, and, if it is found to have occurred, appropriate disciplinary action up to and including

termination of employment will be taken. Consideration will also be given to remedial action necessary to eliminate unlawful harassment and to remove any detriment suffered by the aggrieved employee as a result of unlawful harassment.

Retaliation against employees who report perceived unlawful harassment, or who participate in investigations as witnesses or in other capacities, also violates the law and city policy. Such retaliation is prohibited and will not be tolerated and must be reported immediately according to the reporting procedure below.

Workplace Harassment Defined

The purpose of this policy is not to regulate the personal morality of employees. It is to ensure that, in the workplace, employees are not subjected to harassment based on characteristics protected by law and to ensure that employees do not inadvertently engage in behaviors that may be perceived as such harassment.

Unlawful harassment may include:

- (1) Verbal, nonverbal, or physical conduct that shows aversion, denigration, or hostility because of race, color, religion, national origin, sex (including pregnancy, gender identity, transgender status, and sexual orientation), age, disability, veteran status, or other protected characteristic when it:
 - (A) Creates an intimidating, hostile, or offensive working environment;
 - (B) Unreasonably interferes with an individual's work; or
 - (C) Adversely affects an individual's employment opportunities.
- (2) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - (A) Submission to the conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - (B) Submission to or rejection of the conduct is used as the basis for employment decisions; or
 - (C) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Examples of Types of Behavior That May Violate This Policy Include:

Verbal/Written Actions:

- Offensive comments, including slurs or ridicule of another's culture, accent, or appearance;
- Humor, jokes, teasing, or asking unwelcome questions about protected class characteristics, including comments about the individual's body;
- Computer transmissions/email/social media or online postings/texts;
- Intentional or persistent failure to respect an individual's gender identity (e.g., intentionally referring to the individual by a name or pronoun that does not correspond to the individual's gender identity);

- Threatening, intimidating, or abusive words or acts;
- Rumors about other employees; or
- Whistling.

Sexual Harassment Also Includes:

- Offering or implying an employment-related reward such as a promotion or raise in exchange for sexual favors or submission to sexual conduct, or threatening or carrying out negative actions such as termination, demotion, or denial of a raise or leave due to the rejection of such advances;
- Comments about sexual activities, prowess, or deficiencies;
- Propositions, innuendo, flirtation, suggestive or sexist comments, or gifts; or
- Continued advances or other unwelcome conduct after the conclusion of a consensual relationship.

Sexual Harassment Can Include: Conduct between members of the same sex.

Visual/Graphic/Non-Verbal: Pictures, posters, signs, cartoons; display of objects or images; graffiti; vandalism; staring; or exclusion.

Physical Actions: Touching, pinching, patting, brushing against the body, hugging, assault, impeding access, or vandalism.

Scope of the Policy

Conduct prohibited by this policy is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings, and business-related social events.

Rude, uncivil, disrespectful, or otherwise unacceptable conduct that is not based on legally protected characteristics is not covered by this policy. However, it is covered by other city policies.

Reporting Procedure

If you experience unwelcome conduct in violation of this policy, or believe that you are being unlawfully harassed or retaliated against, or you observe or otherwise become aware of such conduct in the workplace, you are encouraged (if you are comfortable doing so), but not required, to promptly tell the person that the conduct is unwelcome and ask them to stop the conduct. Anyone who receives such a request is expected to comply with the request and not retaliate against the person making the request.

If this action does not put a stop to the unwelcomed conduct or perceived harassment or retaliation, or if you do not want to confront the individual, then you must immediately report the conduct to one of the following individuals: (a) the city manager, (b) the human resources director, or (c) the human resources manager, who, as of the date of the most recent amendment of this policy, is Lesia H. Cox.

Regardless of which approach you take, the city encourages prompt reporting of unwelcome conduct before it becomes severe or pervasive. Early reporting and

intervention have proven to be the most effective method of resolving actual or perceived harassment.

This procedure does not require reports to be made to your supervisor or to anyone who you believe is participating in the conduct. Instead, you may choose from the above-listed individuals the person with whom you would be most comfortable speaking.

Supervisors and managers who become aware of perceived harassment or retaliation must immediately report such matters to the following individuals: (a) the city manager, (b) the human resources director, or (c) the city attorney.

Disciplinary action, up to and including termination of employment, may result against supervisors and managers who fail to respond immediately and appropriately to the allegations.

All reports of alleged harassment or retaliation will be investigated. Under no condition will the investigation be conducted by or under the direction of the person reported to have engaged in the alleged harassment or retaliation. Confidentiality will be maintained to the extent consistent with adequate investigation and appropriate corrective action.

SECTION 8. SUBSTANCE ABUSE PREVENTION POLICY

8.01 The following rules represent the City of Asheboro's policy concerning the prevention of substance abuse. These rules will be enforced uniformly for all employees. The purposes of the policy are as follows:

- (A) The establishment and maintenance of a safe and healthy working environment for all employees;
- (B) Compliance with United States and North Carolina Department of Transportation regulations pertaining to holders of a Commercial Driver's License (CDL);
- (C) The establishment and maintenance of a drug-free workplace for the City of Asheboro;
- (D) The establishment and maintenance of a positive, good government reputation for the City of Asheboro and its employees within the community so as to foster confidence in the ability of the municipal corporation to safely and effectively deliver public services;
- (E) The reduction and prevention of accidental injuries, absenteeism, tardiness, and other work-related problems that negatively impact the city's employees and the public that it serves; and
- (F) The creation and facilitation of an opportunity for rehabilitative assistance to be made available for employees who seek such help.

- 8.02 Employees with substance abuse problems are encouraged to seek help from counselors and other medical professionals and, where appropriate, in treatment facilities. Participation in a treatment or rehabilitation program for substance abuse will not be grounds for dismissal provided the employee voluntarily enters such a program prior to identification as a substance abuser by means of the implementation of one of the regulations/testing procedures established by this policy.
- 8.03 For the purpose of interpreting and implementing the substance abuse prevention policy, the following bold and italicized words or terms shall be defined and implemented as specified in this subsection.
- (A) An ***alcohol test*** means a test for the presence of alcohol in the body. This presence must be determined by the use of a breath alcohol test or other device approved by the United States Department of Transportation. Alcohol testing shall be conducted in compliance with 49 CFR Part 40 (Part 40). By way of illustration and not limitation, such compliance shall include strict adherence to Part 40 as to how alcohol testing is conducted, who is authorized to participate in the alcohol testing program, and what employees must do before they may return-to-duty following an alcohol violation.
 - (B) A ***drug test*** means a test for the presence of drugs listed in the drug testing panel established by the United States Department of Transportation. Drug testing shall be conducted in compliance with Part 40. By way of illustration and not limitation, such compliance shall include strict adherence to Part 40 as to how drug testing is conducted, who is authorized to participate in the drug testing program, and what employees must do before they may return-to-duty following a drug violation.
 - (C) A ***negative drug test*** means a drug test that does not show the presence of drugs and/or drug metabolite(s) at a level specified to be a positive test.
 - (D) A ***positive drug test*** means a drug test that does indicate the presence of a drug and/or drug metabolite(s) in the urine or blood at the level specified to be positive by the Substance Abuse and Mental Health Services Administration (SAMHSA). All positive test results will be confirmed using a different technology than the first test, such as the Gas Chromatography Mass Spectrometry (GC-MS) process.
 - (E) A ***negative alcohol test*** means an alcohol test that indicates a breath alcohol concentration of less than 0.02.
 - (F) A ***positive alcohol test*** means an alcohol test that indicates a breath alcohol concentration of 0.04 or greater.
 - (G) The term ***refusal to submit*** means an occurrence when an employee does any one of the following:

- (1) Fails to provide an adequate amount of urine for a drug test without a valid medical explanation after he/she has received notice of the test;
 - (2) Fails to provide an adequate amount of breath for an alcohol test without a valid medical explanation after he/she has received notice of the test; or
 - (3) Engages in conduct that clearly indicates he/she is failing to follow through with the testing process or engages in conduct that interferes with the ability to obtain an adequate specimen.
- (H) With the exception of fire department employees who operate emergency equipment and are therefore exempt from the CDL requirement, the term **employees required to have a CDL** means employees who perform one or more of the following functions:
- (1) Drivers of commercial motor vehicles with a gross vehicle weight rating of 26,001 pounds or more;
 - (2) Drivers of commercial motor vehicles with a gross combination weight rating of 26,001 pounds or more, including a towed vehicle with a gross vehicle weight rating of 10,000 pounds or more;
 - (3) Drivers of motor vehicles designed to transport 16 or more passengers, including the driver; and
 - (4) Drivers of motor vehicles of any size transporting hazardous materials in amounts that require placarding.
- (I) Based on definitions utilized by the United States Department of Transportation, and with the explicit notation that the following definition is not meant to serve as an exhaustive or exclusive listing of safety-sensitive functions because other job activities/requirements may also be considered safety-sensitive, the term **safety-sensitive function** shall be deemed to include the following activities:
- (1) Driving a commercial motor vehicle;
 - (2) Inspecting, servicing, or conditioning any commercial motor vehicle;
 - (3) All time at a city facility or other public property waiting to operate a commercial motor vehicle;
 - (4) Performing all or other functions in or upon any commercial motor vehicle except resting in a sleeper berth;
 - (5) Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading of a commercial motor vehicle, attending a commercial motor vehicle being loaded or unloaded, or remaining in readiness to operate the commercial motor vehicle;
 - (6) All time spent performing the driver requirements associated with an accident involving a commercial motor vehicle; and
 - (7) Repairing, obtaining assistance, or remaining in attendance with a disabled commercial motor vehicle.

8.04 The substance abuse prevention policy is applicable to all of the types/categories of city employees listed in this subsection.

- (A) All full-time, part-time, temporary, and seasonal employees.
- (B) All employees required as part of their job duties to obtain and maintain a CDL.
- (C) All applicants for employment with the City of Asheboro.

8.05 Under the city's substance abuse prevention policy, the drug and alcohol testing practices described in this subsection will be implemented in a manner that conforms to all applicable federal and state laws and administrative regulations.

(A) Pre-Employment Testing

Drug testing shall be conducted prior to employment. This testing must be conducted on external applicants as well as current employees transferring into jobs that require a CDL. The test results must indicate a negative drug test in order to enter into employment with the city or to transfer to a job that requires a CDL.

(B) Post-Accident Testing

A drug test and/or an alcohol test may be used by the city as a tool, in appropriate circumstances, to evaluate the root causes of incidents that result in work-related injuries or illnesses requiring medical treatment other than first aid for city employees or others. When evaluating whether to utilize post-accident testing of one or more employees, the central inquiry will be whether a reasonable basis exists to believe that drug or alcohol use by one or more employees could have contributed to the injury or illness. The highest ranking supervisor of the employee(s) involved in an incident that results in injury or illness, in consultation with the city's safety manager or any other designee of the human resources director, must evaluate the totality of the evidence, including whether the hazardousness of the work being performed creates a heightened concern as to whether drug or alcohol use was involved, and decide whether a reasonable basis exists to order drug and/or alcohol testing because of the potential role these substances could have played in the work-related illness or injury. If a reasonable basis is found to exist for testing one or more employees, then the drug and/or alcohol test(s) indicated by the facts surrounding the work-related injury or illness shall be conducted as soon as practicable.

(C) Post-Accident Testing for Employees Required to Have a CDL

For employees required to have a CDL, post-accident testing for drugs and alcohol must be conducted on any surviving driver who was performing safety-sensitive functions with respect to the vehicle if:

- (1) The accident involved a fatality; or

- (2) The driver received a citation under state or local law for a moving traffic violation arising from the accident and either the vehicle is towed from the scene or someone is medically evacuated from the scene.

Testing for drugs and alcohol in employees required to have a CDL is to occur, if at all practicable, within 2 hours of the accident. If the employee is unable to be tested within 2 hours, the reasons for the delay must be documented. If an alcohol test required by this division of subsection 8.05 is not administered within 8 hours of the accident, attempts to conduct the alcohol test shall cease and the reason for the inability to conduct the test shall be documented. If a drug test required by this division of subsection 8.05 is not administered within 32 hours of the accident, attempts to conduct the drug test shall cease and the reason for the inability to conduct the drug test shall be documented.

(D) Random Testing

This type of testing must be conducted on a random, unannounced basis throughout the year on all employees required to have a CDL. Random testing for drugs and alcohol in all employees required to have a CDL shall be conducted in a manner and at a rate that is fully compliant with all of the applicable federal and state laws and administrative regulations.

(E) For Cause Testing

This type of testing can occur in two types of situations that are described as follows:

- (1) This testing, whether the testing consists of a drug test and/or an alcohol test will depend on the facts of each case, is required of any employee who has been arrested or has had his/her driver's license suspended for any alcohol or drug related charge prior to the employee's return to work. Such an employee must notify his/her supervisor prior to returning to work after the arrest and/or suspension has occurred. An employee's failure to report this information to a supervisor in a timely manner serves as a stand-alone basis for dismissing the employee from his/her position of employment with the city.
- (2) In appropriate circumstances and in consultation with the human resources department, specifically including the safety manager or any other official designated by the human resources director, a supervisor may order "for cause" testing of an employee as a tool to determine why actions are occurring that have the potential to be injurious to the employee himself or herself, other city employees, or third parties. The final decision as to whether "for cause" testing is to be ordered will be based on a case-by-case evaluation of the totality of the evidence to determine whether observations of the employee and his/her actions during the relevant time period lead to a reasonable suspicion that impairment due to drug and/or alcohol use

is creating the potential for injury. An additional factor to be weighed as part of the decision making process is whether the degree of hazardousness of the work being performed and the potential for harmful consequences heightens the city's interest in quickly determining whether drug or alcohol use is impairing the ability of an employee to safely perform his/her duties. If the responsible city officials conclude that a reasonable suspicion exists to believe that alcohol or drug use by one or more employees is creating an unsafe situation, then the drug and/or alcohol test indicated by the observable facts shall be conducted as soon as practicable.

(F) Return-to-Duty Testing

In cases where an employee is seeking to return to work after a positive drug test and/or a positive alcohol test, return-to-duty testing focused on the same type of testing that previously produced a positive test result must be successfully completed by the employee before approval can be granted for the employee to return to work. More specifically, an employee who has had a positive drug test and/or a positive alcohol test will not be allowed to return to work until he or she has been evaluated by a substance abuse professional and has tested negative on the designated return-to-duty test.

(G) Follow-Up Testing

After an employee has successfully completed the above-described return-to-duty testing, the employee will be subject to follow-up testing during the 12-calendar month time period immediately following the date of the employee's return to duty. During the said 12-month time period, a minimum of 6 follow-up tests will be administered without advance notice of the date and time when testing will occur. Due to regulatory concerns pertaining to measuring impairment at a relevant point in time, a follow-up drug test may be administered any time the employee is at work, but a follow-up alcohol test will only be administered immediately before, during, or immediately after the performance of a safety-sensitive function. The type of test to be administered will depend on which type of positive test result necessitated the return-to-duty testing and the subsequent follow-up testing. No sentence or clause within this division of subsection 8.05 shall be construed or interpreted in any manner that precludes the administration of a drug or alcohol test that would otherwise be authorized by a separate division of subsection 8.05.

8.06 The following list of prohibitions, inclusive of the corresponding consequences for acting in contravention of the stated prohibitions, is hereby adopted as a component of the city's substance abuse prevention policy.

- (A) No employee shall report for duty or remain on duty while having alcohol and/or drug concentrations in his or her system in amounts that would constitute a positive test for either substance. An employee who produces a confirmed positive test result will be removed from duty without regular

pay; provided, however, such an employee may use accrued leave time while relieved of his or her duties so long as such leave is used in a manner that is compliant with all other sections of the City of Asheboro Employee Policies and Procedures Manual. The employee must immediately schedule an evaluation with a substance abuse professional and must cooperate with any and all recommendations made by the substance abuse professional. Refusal to cooperate with the substance abuse professional will subject the employee to dismissal from his or her employment with the city. The employee must have a negative test result before he or she will be allowed to return to duty.

- (B) The City of Asheboro expressly prohibits the possession, use, sale, distribution, dispensation, manufacture, purchase, or storage of controlled substances (i.e. illegal drugs) and related paraphernalia as well as alcoholic beverages by city employees while at the workplace or while performing work duties. By way of illustration and not limitation, no employee shall be on-duty while in the possession of one or more alcoholic beverages and/or controlled substances. Any action taken in violation of this prohibition will subject the offending employee to dismissal from his or her employment with the city. Notwithstanding the foregoing prohibition, the following actions by city employees will not be deemed to be a violation of a workplace rule:
 - (1) The possession and use of medication(s) in strict compliance with prescriptions and instructions, include work limitations, issued by a properly licensed health care provider;
 - (2) The inadvertent discovery and subsequent securing of abandoned controlled substances and associated paraphernalia as well as alcoholic beverages during the course of performing an employee's job duties so long as such abandoned items are immediately surrendered to a law enforcement officer or destroyed in a manner consistent with instructions received from the Asheboro Police Department; and
 - (3) The interaction of sworn law enforcement officers with controlled substances and paraphernalia as well as alcoholic beverages so long as such interaction is conducted in furtherance of assigned job duties and is conducted in a manner that is compliant with all applicable laws, ordinances, administrative regulations, and agency policies and procedures.
- (C) No employee who is required to take a post-accident alcohol test shall use alcohol until the earlier of either of the following events: 8 hours following the accident, or until he or she fully completes the required post-accident alcohol test. A violation of this requirement will subject the non-compliant employee to dismissal from his or her employment with the city.
- (D) A refusal by an employee to submit to and fully cooperate with an alcohol test and/or drug test required by this policy shall be deemed to be a direct and intentional act of insubordination that will result in the termination of the non-compliant employee's employment with the city.

- (E) Except when the use is pursuant to the instructions of a properly licensed health care professional who has informed the employee that the prescribed use of the controlled substance will not adversely affect the employee's ability to safely perform assigned work duties, employees are prohibited from reporting for duty or remaining on duty while the employee is subject to the effects of any controlled substance.
- (F) A second occurrence of a positive drug test and/or alcohol test will result in the dismissal of an individual from his or her employment with the city.
- (G) An employee who has a confirmed breath alcohol test result of 0.02 – 0.039 will not be allowed to continue to perform any safety-sensitive functions. In furtherance of this prohibition, such an employee will be relieved of his or her job duties for 24 hours subsequent to the confirmed test result. During this 24-hour period, the employee will not be paid by the city; provided, however, the employee may use accrued leave time while relieved of his or her duties so long as such leave is used in a manner that is compliant with all other sections of the City of Asheboro Employee Policies and Procedures Manual. The occurrence of this confirmed breath alcohol test result will be documented, and the employee will be counseled about the importance of reporting to work without the presence of alcohol in his or her system. Such an employee will be subject to a return-to-duty alcohol test prior to returning to a job position that requires the performance of a safety-sensitive function.
- (H) Consistent with the contingencies listed in conditional offers of employment extended to applicants for city employment, an applicant will not be permitted to enter employment with the city if a confirmed positive pre-employment drug test result is produced during the hiring process for a particular job.

8.07 This subsection lists supplemental provisions/requirements that are hereby incorporated into the city's substance abuse prevention policy.

- (A) The Omnibus Transportation Employee Testing Act of 1991 (final rules implemented February 15, 1994) requires, in part, that any commercial motor vehicle operator who is subject to the CDL requirements in the State of North Carolina shall be tested for alcohol and controlled substances.
- (B) Compliance with the Department of Health and Human Services mandatory guidelines for controlled substances testing shall be maintained by only using a laboratory certified by the Substance Abuse and Mental Health Services Administration.
- (C) Federally mandated alcohol testing must be conducted by a Breath Alcohol Technician (BAT) trained to a level of proficiency that is demonstrated by successful completion of a generally recognized and accepted course of instruction. Alcohol testing shall be conducted using an Evidential Breath Testing (EBT) device.

- (D) Consistent with the federal Drug-Free Workplace Act, if an employee is convicted of a violation of a criminal drug statute and the violation occurred while the employee was at work, the employee must notify his or her department head of the conviction within 5 days after the conviction. An employee's failure to comply with this requirement will subject the employee to dismissal from his or her employment with the city.
- (E) All drug test results shall be reviewed and interpreted by a Medical Review Officer (MRO). The MRO must be a licensed physician with specific training in substance abuse. If the laboratory reports a positive test result, the MRO or the MRO's designee will contact the employee, typically by telephone, and discuss the results with the employee. The MRO will then attempt to determine if there is a verifiable medical explanation for the employee to have the detected drug in his or her system. If there is none, the test result is to be reported as positive. If there is a verifiable medical explanation for the use of the drug, the result is to be reported as negative.
- (F) In situations where the laboratory reports a negative dilute drug test result, the three immediately following procedures shall be applicable.
- (1) If the test was performed in order to comply with United States Department of Transportation (DOT) regulations, and the MRO directs that a second collection take place under direct observation (*i.e.*, because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL), then immediate compliance with the instructions shall occur. Failure of the employee or applicant to submit for this recollection is classified by the DOT as a refusal to test.
 - (2) If the test was not performed in order to comply with a DOT regulatory program, and the MRO directs that a second collection take place (*i.e.*, because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL, but less than or equal to 5 mg/dL), then immediate compliance with the instructions shall occur. Direct observation is not to be utilized in this circumstance. Failure of the employee or applicant to submit for this recollection shall be deemed to be a refusal to test.
 - (3) Otherwise, if the creatinine concentration of the negative dilute specimen was greater than 5 mg/dL, then the city will accept the negative test result for the employee or applicant as is.
- (G) In the event an employee does not pass a drug and/or alcohol test and is terminated, or an applicant does not pass the pre-employment testing mandated by this policy, such an individual will be ineligible for re-employment by the city during a 1-year waiting period. The commencement date for the 1-year waiting period begins on the calendar day that immediately follows the date of the written notification, as applicable, of the employee's dismissal from city employment or of the withdrawal of the applicant's conditional offer of employment. After the expiration of the 1-year waiting period, if a conditional offer of employment is extended as part of a subsequent

hiring process, the individual must successfully complete the pre-employment testing specified in the most recent conditional offer of employment.

(H) On January 6, 2020, the United States Department of Transportation's Federal Motor Carrier Safety Administration Drug and Alcohol Clearinghouse (the Clearinghouse) became operational. As an employer regulated by the Federal Motor Carrier Safety Administration, the city is a registered user of the Clearinghouse with certain reporting obligations. CDL holders and applicants for jobs requiring a CDL are hereby notified that the following information will be reported to the Clearinghouse:

- (1) A verified positive, adulterated, or substituted drug test result;
- (2) An alcohol confirmation test with a concentration of 0.04 or higher;
- (3) A refusal to submit to a drug or alcohol test;
- (4) An employer's report of actual knowledge, as defined in 49 CFR § 382.107;
- (5) On-duty alcohol use pursuant to 49 CFR § 382.205;
- (6) Pre-duty alcohol use pursuant to 49 CFR § 382.207;
- (7) Alcohol use following an accident pursuant to 49 CFR § 382.209;
- (8) Drug use pursuant to 49 CFR § 382.213;
- (9) A substance abuse professional's report of successful completion of the return-to-duty process;
- (10) A negative return-to-duty test; and
- (11) An employer's report of completion of follow-up testing.

(I) Any questions regarding this policy should be directed to the city's human resources director at (336) 629-2037.

SECTION 9. AMERICANS WITH DISABILITIES ACT

The Americans with Disabilities Act (ADA) requires employers to reasonably accommodate qualified individuals with disabilities. It is the policy of the City of Asheboro to comply with all federal and state laws concerning the employment of persons with disabilities.

The City of Asheboro is committed to providing reasonable accommodations to employees and applicants for employment in order to assure that individuals with disabilities enjoy full access to equal employment opportunity. The City of Asheboro shall provide reasonable accommodation for the known physical or mental limitations of qualified employees and applicants with disabilities unless a particular accommodation would impose an undue hardship on its operations.

Definitions

Disability. An impairment that substantially limits one or more major life activity.

Essential Functions. Those job duties that are so fundamental to the position that the individual holds or desires that he/she cannot do the job without performing them. A function can be "essential" if, among other things: the position exists specifically to perform that function there are a limited number of other employees who could perform the function; or the function is specialized and the individual is hired based on his/her ability to perform them. Determination of the essential functions of a position must be

done on a case-by-case basis so that it reflects the job as actually performed and not simply the components of a generic position description.

Individual with a Disability. A person who has a physical or mental impairment that substantially limits one or more of that person's major life activities, has a record of having such an impairment, or is regarded as having such an impairment.

Interactive Process. The process by which an individual requesting an accommodation and the decision-makers talk to each other about the request for accommodation, the process for determining whether an accommodation will be provided, and potential accommodations.

Major Life Activity. Basic activities that the average person in the general population can perform with little or no difficulty, including but not limited to: caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. A major life activity also includes the operation of a major bodily function, including but not limited to the functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions.

Qualified Individual with a Disability. An individual with a disability who satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

Reasonable Accommodation. An adjustment or alteration that enables a qualified person with a disability to apply for a job, perform job duties, or enjoy benefits and privileges of employment. There are three categories of reasonable accommodations: Modifications or adjustments to a job application process to permit an individual with a disability to be considered for a job (such as providing application forms in alternative formats like large print or Braille); Modifications or adjustments to enable a qualified individual with a disability to perform the essential functions of the job (such as providing sign language interpreters); and Modifications or adjustments that enable employees with disabilities to enjoy equal benefits and privileges of employment (such as removing physical barriers in organization.)

Reassignment. A form of reasonable accommodation that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made only to vacant positions and to employees who are qualified for the new position. If the employee is qualified for the position, he/she will be reassigned to the job and will not have to compete.

Request for Reasonable Accommodation. A statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a medical condition.

Process for Requesting Reasonable Accommodation

The City of Asheboro will make reasonable accommodations whenever necessary for all qualified employees or candidates for employment with disabilities, as defined by applicable law, provided that the individual is otherwise qualified to safely perform the essential functions of the job and such accommodations do not impose undue hardship on the City's operations.

Requesting an Accommodation

If an employee has a disability that requires an accommodation in order for him to perform the essential functions of his job, or otherwise enjoy the benefits and privileges of employment, he must initiate a request for accommodation by contacting his direct supervisor/manager or the human resources director and identify an adjustment or change at work that is needed because of said disability.

If a candidate for employment has a disability that requires an accommodation in order to apply for a job, he must initiate the request for accommodation by contacting the human resources department and identifying an adjustment or change in the application process or system that is needed because of said disability.

Participating in the Interactive Process

An employee seeking an accommodation under this policy will engage in an interactive dialog (the "interactive process") with his supervisor, department head and the human resources director to identify an accommodation that will allow the employee to perform the essential functions of the job effectively or engage in other benefits of employment that are enjoyed by similarly situated employees without disabilities.

If the city is able to accommodate the request as a result of the interactive process, without the need for supporting medical documentation or other information, the employee does not need to proceed with any further steps outlined in this process. If the employee's supervisor, department head or the human resources director have questions regarding the implementation of an accommodation, questions related to whether the medical condition is a qualifying disability under the ADA, or need additional medical information to determine what accommodations may be available or effective, the human resources director shall provide the employee with the city's medical inquiry form.

The employee must cooperate with human resources in submitting the necessary medical documentation and/or providing a release of medical information that permits human resources to communicate with the employee's health care provider. The employee must return all forms and responsive information within 15 days of the request. Processing the request for accommodation may not proceed until all required forms have been completed and returned to human resources.

Human resources will review the completed forms received from the employee and/or the employee's health care provider. If the information provided is incomplete or requires further clarification, human resources may request additional information from the employee or his health care provider.

Determination

If, based on medical and other information provided by the employee and/or his health care provider, the employee is determined to be a qualified individual with a disability, human resources will notify the employee and his department head.

The human resources director will work with the employee and his department head to identify and discuss reasonable accommodations that will enable the employee to perform the essential functions of the job or to participate in the same benefits and privileges of employment enjoyed by similarly situated employees without disabilities. In instances where there is no reasonable accommodation that enables the employee to perform the essential functions of the job, including unpaid leave and assignment to a vacant position, the employee may be terminated.

Modifications Not Necessarily Determinative of Disability Status

When appropriate, temporary modifications may be made pending review of medical information, or modifications may be made without relying on whether the employee has a disability as defined by law. These actions should not be construed as a finding by the city that it has made a determination that an employee is a qualified individual with a disability under the ADA.

Confidentiality

Information obtained in the course of this process will be kept confidential and will be disclosed only on a restricted, need-to-know basis and as otherwise permitted or required by law.

Protection from Discrimination and Retaliation

Discrimination or retaliation against an individual who has a disability and/or who requests a reasonable accommodation is strictly prohibited.

Responsibilities

Employees/Candidates

Employees and/or candidates with a disability that interferes with their ability to apply for a job, perform their essential job functions or otherwise enjoy the benefits and privileges of employment that are available to other similarly situated employees without disabilities, and who desire an accommodation, must follow the process set forth above.

The employee or candidate who requests an accommodation has the responsibility to submit all required documentation on a timely basis and to remain engaged in the interactive process with the city while a determination is being made. It is the employee's responsibility to work with his supervisor, department head, the human resources director and qualified health care professional to review and complete all forms required. Any failure by the employee to supply the city with all relevant and requested medical information or to otherwise meaningfully cooperate in the interactive process may result in the city's denial of the accommodation or delay in the process.

Department Heads/Supervisors

Department heads and supervisors are responsible for ensuring that all employees under their supervision are fully aware of the contents of this policy. When an employee requests an accommodation, the department head and/or supervisor must participate

in the interactive process with the employee to determine if a reasonable accommodation can be made with or without seeking additional information about the employee's medical condition through human resources. If human resources determines that an employee's medical condition is a qualifying disability under the ADA, the department head and supervisor must continue to work with the employee to identify existing reasonable accommodations that will enable the employee to perform the essential functions of his job.

Human Resources

Human resources, in consultation with the city attorney when necessary, is responsible for determining whether an individual is entitled to an accommodation under the terms of this policy, assisting in the interactive process to identify reasonable accommodations as necessary, and informing employees of their rights and obligations pursuant to this policy.

SECTION 10. PREGNANT WORKERS FAIRNESS ACT

The City of Asheboro is committed to complying with all applicable provisions of the Pregnant Workers Fairness Act ("PWFA"). The PWFA requires the city to provide reasonable accommodations for a worker's known temporary limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship. An undue hardship is defined as causing significant difficulty or expense. In terms of the confidentiality of medical information, the city adheres to guidance from the Equal Employment Opportunity Commission that confidentiality provisions associated with the Americans with Disability Act are equally applicable to the PWFA. Consequently, these same restrictions on access to confidential medical information will apply in situations where employees provide documentation related to pregnancy, childbirth, or associated medical conditions under the PWFA's interactive process. Employees should contact the City of Asheboro Human Resources Department with any questions or requests for accommodation(s).

SECTION 11. EMPLOYMENT OF RELATIVES

The city prohibits the hiring of relatives within the same department; however, related persons may work for the city in different departments. When an issue pertaining to the employment of relatives within the same department arises subsequent to the hiring process, the permissibility of related persons working within the same department will be evaluated on a case-by-case basis. While not expressly prohibited, such a situation is discouraged. An employee may not serve as a direct supervisor for a related employee under any circumstances.

For the purpose of this section, relatives shall include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named.

Seasonal recreational and part-time employees in the Cultural Services or the Recreation Services departments are exempted from the prohibition specified in this section.

SECTION 12. WHISTLEBLOWER POLICY

The City of Asheboro requires its employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. Employees must practice honesty and integrity in fulfilling responsibilities and must comply with all applicable city policies, and all applicable laws and regulations.

Reporting Responsibility

This policy is intended to encourage and enable employees and others to raise serious concerns internally so that the City of Asheboro can address and correct inappropriate conduct and actions. It is the responsibility of all employees and officers to report concerns about violations of the city's policies or suspected violations of law or of regulations that govern city operations.

No Retaliation

It is contrary to the City of Asheboro's values for anyone to retaliate against any board member, officer, employee or volunteer who, in good faith, reports a policy violation, an ethics violation, or a suspected violation of law or of any regulation governing city operations. An employee who retaliates against someone who has reported a violation in good faith is subject to disciplinary action up to and including dismissal.

Reporting Procedure

The City of Asheboro has an open door policy. If comfortable doing so, employees should first share their questions, concerns, suggestions and complaints with their supervisor or department head. If an employee is not comfortable speaking with his/her supervisor or department head, the employee should speak with the human resources director or the city manager. Department heads and supervisors are required to report complaints or concerns about suspected ethical and legal violations to the human resources director, who has the responsibility to investigate all reported complaints.

Compliance Officer

The human resources director is responsible for ensuring that all whistleblower complaints are investigated and resolved. The human resources director will advise the city manager of all complaints and their resolution.

Accounting and Auditing Matters

The human resources director shall immediately notify the city manager and the finance director of any concerns or complaints regarding accounting practices, internal controls or auditing so that the finance director can inform and work with the auditor to see that the matter is resolved.

Acting in Good Faith

Anyone filing a complaint concerning a violation or suspected violation must be acting in good faith and have reasonable grounds for believing that a violation exists. Making an unsubstantiated allegation maliciously or when known to be false will be viewed as a serious disciplinary offense.

Confidentiality

Violations or suspected violations may be reported on a confidential basis and will be kept confidential to the extent possible, consistent with applicable laws, and with the need to conduct an adequate investigation.

Handling of Reported Violations

The human resources director will notify the complainant and acknowledge receipt of the reported violation or suspected violation. All reports will be promptly investigated and appropriate action will be taken when warranted by the investigation.

SECTION 13. POLICY PROHIBITING VIEWING PORNOGRAPHY ON CITY DEVICES AND NETWORK

13.01 The following definitions apply to, and are specific to, Section 13 in Article I of the City of Asheboro Employee Policies and Procedures Manual.

- (a) Device is defined as any cellular phone, desktop or laptop computer, or other electronic equipment capable of connecting to a network.
- (b) Material has the same meaning as defined in Section 14-190.13 of the North Carolina General Statutes.
- (c) Network is defined as any of the following, whether through owning, leasing, maintaining, or otherwise controlling:
 - (i) The interconnection of communication systems with a computer through remote or local terminals, or a complex consisting of two or more interconnected computers or telephone switching equipment;
 - (ii) Internet service; and
 - (iii) Internet access.
- (d) Pornography is defined as any material depicting sexual activity.
- (e) Sexual Activity has the same meaning as defined in Section 14-190.13 of the North Carolina General Statutes.

13.02 The viewing by city employees of pornography on a network of the city is prohibited.

13.03 The viewing by city employees of pornography on a device owned, leased, maintained, or otherwise controlled by the city is prohibited. This same prohibition applies to the city's elected officials and appointees; provided, however, the elected officials and appointees are not subject to the employee policies and procedures manual. Consequently, the same prohibition will be incorporated by the city council into its adopted code of ethics.

- 13.04 The prohibitions stated in Sections 13.02 and 13.03 shall not apply to a city official or employee that is engaged in any of the following activities in the course of that official's or employee's official duties.
- (a) Investigating or prosecuting crimes, offering or participating in law enforcement training, or performing actions related to other law enforcement purposes.
 - (b) Identifying potential security or cybersecurity threats.
 - (c) Protecting human life.
 - (d) Establishing, testing, and maintaining firewalls, protocols, and otherwise implementing this section.
 - (e) Participating in judicial or quasi-judicial proceedings.
- 13.05 Annually, no later than August 1 and in the format required by the State Chief Information Officer, the city's Information Systems Director shall report information to the State Chief Information Officer on the number of incidences of unauthorized viewing or attempted viewing of pornography on the city's network; whether or not the unauthorized viewing was by a city employee, elected official, or appointee; and whether or not any of the unauthorized viewing was on a device owned, leased, maintained, or otherwise controlled by the city.
- 13.06 Any violation of Section 13 in Article I of the employee policies and procedures manual shall constitute grounds for disciplinary action up to and including dismissal from employment with the City of Asheboro. Such disciplinary action shall be administered in accordance with Article VIII of the City of Asheboro Employee Policies and Procedures Manual.

SECTION 14. IMPLEMENTATION OF POLICIES

All employees, supervisory and line employees alike, are hereby charged with the responsibility of continually reviewing the employee policies and procedures found in this manual and ensuring that conduct and practices in the workplace conform to the guidelines found. Workplace practices or customs are to be constantly reviewed in order to make sure that a divergence does not develop between the workplace practices and the city's written policies. Without limiting the importance of other policies, specific attention is to be given to ensuring that safety policies and guidelines are properly observed, workplace violence is prevented, and equal employment opportunity based on reasonable job-related job requirements is actively advocated and practiced to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, non-job related disability, genetic information, national origin, political affiliation, or military service.

ARTICLE II. RECRUITMENT AND EMPLOYMENT

SECTION 1. RECRUITMENT AND EMPLOYMENT APPLICATION PROCEDURES

At the time of an employment vacancy, members of the human resources department, in consultation with the division/department head, will determine to what extent, if any, the vacancy should be advertised. All vacancy announcements distributed throughout the community will specify qualifying requirements and the pay range of the positions to be filled. Employment advertisement shall contain assurances of equal employment opportunities and shall comply with federal and state statutes regarding the prohibition of discrimination in employment matters.

Upon inquiry, each individual interested in employment with the city shall be informed of all current job vacancies open to external candidates. In order to be considered for employment with the city, an individual must submit a written application on the form prescribed by the human resources department for current job vacancies only.

In order to ensure that an accurate background check can be completed in the event a conditional offer of employment is extended to an individual, applicants for employment with the city shall, upon request, provide information that can be used to confirm the identity of the applicant along with written consent to conduct a background check, including without limitation a check of the applicant's criminal history record information. The requested information may include, but is not limited to, the applicant's full name, documents such as a birth certificate or driver's license, and/or a completed applicant fingerprint card.

The request for written consent to conduct a background check shall include, at a minimum, notice that North Carolina law, subject to certain exceptions for individuals who are seeking or hold any certifications issued by the North Carolina Criminal Justice Education and Training Standards Commission, allows applicants to not refer to any arrest, charge, or conviction that has been expunged. An applicant need not, in answer to a question concerning any arrest or criminal charge that has not resulted in a conviction, include a reference to or information concerning charges or convictions that have been expunged. An applicant shall not be denied employment solely because of the applicant's failure or refusal to disclose information concerning any arrest, criminal charge, or criminal conviction of the applicant that has been expunged.

Applications will be kept active for each position opening identified on the application during the recruitment process. Once the positions identified on the application are filled, the application will be inactive. In order for an individual to be considered for any future job vacancies, a new application will have to be properly submitted to the city.

Qualified persons currently employed by the city shall receive first consideration for filling those vacancies that represent promotional opportunities via the internal posting process outlined below. Thus, not all position vacancies will be advertised and open to external candidates.

Persons dismissed by the city for unsatisfactory performance of duties or improper personal conduct may not be rehired.

SECTION 2. INITIAL SELECTION OF A CANDIDATE TO FILL A VACANCY

- (A) Upon learning of a future vacancy, the division/department head should **immediately** notify the human resources department of the pertinent information concerning the vacancy.
- (B) The human resources department, with guidance from the department head or division director, will complete a Request to Fill Vacancy Form.
- (C) The human resources department, with guidance from the department head or division director, will determine whether or not the vacancy should be advertised externally and proceed accordingly. If external advertisement is deemed necessary, timelines for the closing of the announcement will then be established.
- (D) The following guidelines are applicable to the posting of job vacancies:
 - (1) **Internal Postings.** Positions are to be posted internally for a minimum of 5 working days for promotional considerations. The human resources department will generate the internal posting for distribution upon notification of the vacancy. When a vacancy for a position occurs within a department, employees who meet the minimum qualifications may apply for that position. Internal postings may be department specific or city-wide.
 - (2) **External Postings.** Positions which are advertised externally shall be advertised (open to recruitment) for a minimum of 5 working days. When circumstances warrant, the 5-working day internal and external vacancy announcements may be posted concurrently. All positions advertised externally will be posted on the city's website and with the local office of the division of employment security and, as determined to be appropriate, advertised through media and other professional sources.
- (E) The human resources department will receive and screen applications. All applications must be channeled through the human resources department in order for the application to be given consideration for employment. Applications will only be accepted for advertised openings. All persons expressing interest in employment with the city shall be given the opportunity to file an application for employment if a current vacancy exists. A person may apply for up to 3 current vacancies using the same application form.
- (F) The human resources department will conduct a screening interview for the best qualified candidates.
- (G) A final list of pre-screened candidates will then be referred to the division/department head and/or designee.

- (H) The division/department head and/or designee will interview candidates from the individuals suggested. If after interviewing from the pre-screened list, none of the candidates match the skills and qualifications desired by the division/department head, the division/department head may request that the search process for a candidate be continued.
- (I) Notwithstanding any other provision, the following exceptions to the procedures specified herein are hereby recognized and accepted as valid exceptions to the posting and selection procedures specified within this manual:
 - (a) The city manager may, at any time, fill a vacancy without an internal or external posting process when such an action is deemed by the city manager, in his sole discretion, to be in the best interest of the city; and
 - (b) Divisions or departments of the city, in consultation with the human resources director and with the approval of the city manager, may utilize a modified screening and selection procedure when such a modification is necessary to comply with occupational licensing board requirements applicable to the position that the division director or department head is attempting to fill.

SECTION 3. CONDITIONAL OFFER OF EMPLOYMENT

When a department head notifies the human resources department of the selection of an applicant as the candidate initially identified as best suited for an open position of employment, the human resources department will contact the selected applicant and extend a written conditional offer of employment. This written conditional offer of employment will advise the selected candidate that the granting of employment with the city is contingent upon the successful completion of a pre-employment drug screen, physical, and background check that includes a criminal history record check, verification of information contained within the individual's application materials, and, if the position sought by the applicant requires the ability to operate a motor vehicle, a review of the applicant's driving history. In addition to the items listed in the immediately preceding sentence, this offer of employment may also be conditioned on the completion, to the satisfaction of the city, of any other examinations, tests, or reviews that are mandated by the applicable federal, state, and local laws, ordinances, and administrative regulations for the occupation/job sought by the applicant.

When an inquiry of criminal history record information indicates that an individual has one or more pending criminal charges and/or has been convicted of or accepted responsibility for one or more felonious or misdemeanor criminal offenses, such information will not serve as an automatic disqualifier that mandates the withdrawal of a conditional offer of employment. Any pending criminal charge(s) and/or past criminal conduct will be subjected to an individualized review of the entirety of the available information before a decision is made as to whether to withdraw a conditional offer of employment. At a minimum, this review will take into account the type of crime(s) of which the individual has been charged or was convicted/accepted responsibility, the frequency of violations and/or any pattern of offenses, the time that has elapsed since the date(s) of any conviction(s)/disposition(s), the applicant's age at the time of any conviction(s)/disposition(s), and the impact, if any, of the past criminal conduct or

pending charges of criminal conduct on the ability of the applicant to perform the essential job functions of the position for which he or she has applied in a manner consistent with the maintenance of the public trust and confidence that is essential to the city's effective delivery of municipal services.

With regard to the pre-employment drug screen and the physical examination, a health care provider performing a medical examination shall be instructed to not report family medical history. The relevant inquiry in this employment-related medical exam is not what the candidate's health may be in the future, but rather what the candidate's present ability is to perform the essential functions of the job. If the selected candidate tests positive for drugs and/or is found to be unable to perform an essential function of the job for which the individual has been selected, the conditional offer of employment will be withdrawn.

Applicants for employment who refuse to comply with or are unable to fully satisfy the conditions attached to a conditional offer of employment, including without limitation fully cooperating with and completing the mandated physical exam and drug screening, are automatically disqualified from final appointment to the position for which they have applied.

Tests required or administered by the city shall be those measuring the skills actually required to perform the essential functions of the job for which an individual has applied.

SECTION 4. NOTIFICATION OF EMPLOYMENT

If and when a selected candidate satisfies the contingencies stated in the conditional offer of employment, the human resources department will transmit to the selected candidate a formal letter of probationary employment with the City of Asheboro. An effective date of hire will be determined based on the needs of the supervisor/department head.

The human resources department will then provide to the selected candidate a new employee orientation that will include, without limitation, an explanation of the city's safety policies and procedures, the necessary payroll documents, and the enrollment of the new employee in the city's insurance programs along with an explanation of the benefits package.

The human resources department will advise the appropriate supervisor that the new employee has completed orientation and the supervisor can greet the new employee at the human resources department or at the new employee's assigned workplace.

SECTION 5. PROBATIONARY PERIOD OF EMPLOYMENT

New employees, promoted employees, or any employee transferred to another position shall serve a probationary period of six (6) months. New employees may be dismissed during the probationary period at any time. A new probationary employee dismissed may not appeal such action. The new employee will be given notice of dismissal in writing.

Promoted or transferred employees may be reassigned at any time during the probationary period to their former position or a comparable position if the department head or division director concludes that the promoted or transferred employee is not satisfactorily progressing in the new assignment. Such reassignments are not subject to appeal.

While both vacation and sick leave are accrued during the probationary period, no vacation leave may be taken by a new probationary employee. Should a new probationary employee terminate employment prior to the completion of the probationary period, no accrued leave will be paid. However, if a probationary employee is injured on the job, they may use accrued leave time, in the order specified in Position Classification and Payroll Administration Article of this manual during the seven (7) day waiting period imposed by the Workers' Compensation Act.

New probationary full-time employees are eligible for salary increases or a cost of living allowance authorized by the city council. Upon the successful completion of an individual's initial probationary period of employment and the attainment of regular employee status, a salary increase may be granted provided the employee's starting salary is below job rate for his/her position.

SECTION 6. POLICE OFFICER TRAINEE PROGRAM

The Asheboro Police Department has implemented a trainee program focused on recruiting future officers who reflect the diversity of the population served by the department, specifically including the cultural and socio-economic composition of the City. The recruitment program enables the police department to pay qualified individuals to attend a properly credentialed basic law enforcement training ("BLET") program with the intent of providing an avenue for someone to pursue a career in law enforcement with the City of Asheboro. Due to the complex and evolving nature of the issues encountered when recruiting and retaining individuals who are working to become sworn law enforcement officers by means of a paid training period that is unique within the city's human resources system, the human resources director and the police chief are hereby authorized to jointly monitor the training program and implement changes, including exempting program participants on an as-needed basis from the coverage of the articles, sections, or provisions of this policies and procedures manual during the BLET period. The requirements/expectations, benefits, and provisions of the employee policies and procedures manual applicable to an individual will be specified in documentation provided to training program participants by the human resources department and the police department.

SECTION 7. FIRE RECRUIT PROGRAM

The Asheboro Fire Department has implemented a recruit program focused on recruiting future firefighters who reflect the diversity of the population served by the department, specifically including the cultural and socio-economic composition of the City. The recruitment program enables the fire department to pay qualified individuals to attend a properly credentialed fire recruit training program with the intent of providing an avenue for someone to pursue a career in firefighting with the City of Asheboro. Due to the

complex and evolving nature of the issues encountered when recruiting and retaining individuals who are working to become firefighters by means of a paid training period that is unique within the city's human resources system, the human resources director and the fire chief are hereby authorized to jointly monitor the training program and to implement changes, including exempting program participants on an as-needed basis from the coverage of the articles, sections, or provisions of this policies and procedures manual during the fire recruit training period. The requirements/expectations, benefits, and provisions of the employee policies and procedures manual applicable to an individual will be specified in documentation provided to training program participants by the human resources department and the fire department.

ARTICLE III: PAYROLL CLASSIFICATION AND PAYROLL ADMINISTRATION

SECTION 1. POSITION CLASSIFICATION PLAN

Allocation of Positions

The city manager shall be the approving authority for the City of Asheboro classification and salary plan developed by the human resources department. The human resources director shall allocate each class title to the appropriate class code in the position classification plan.

Administration

The human resources department shall administer and maintain the position classification plan.

- (a) Department heads shall be responsible for bringing to the attention of the human resources director the need for additional or fewer positions and for highlighting any significant changes in the nature of duties, responsibilities, or working conditions or other factors affecting the classification of a position.
- (b) The city manager shall approve assigning the new position to an existing class title or amending the position classification plan to establish a new class title.
- (c) The human resources director shall be responsible for the administration and maintenance of the position classification plan to accurately reflect the duties performed by employees in the classes to which their positions are allocated. If the human resources director determines that a substantial change has occurred in the nature of duties, responsibilities, or working conditions of an existing class title, the existing job description shall be revised in conjunction with the department/division head. Each position shall be assigned to a salary grade in the classification plan at the recommendation of the human resources director and approval of the city manager.

Definitions

Class. A group 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.

Position (aka job description). A group of current duties and responsibilities, assigned by competent authority, requiring full- or part-time employment.

Position Classification Plan. A plan that assigns classes (positions) to the appropriate pay grade.

Reclassification. The reassignment of an existing position from one class to another based on changes in job content such as duty, kind, difficulty, required skill, and responsibility of the work performed.

Amendment of the Position Classification Plan

The city manager shall approve assigning new or revised positions to an existing class title and may approve amendments recommended by the human resources director to the position classification plan that change the assigned salary range of the existing class title, reassign the position to the appropriate class title within the existing position classification plan, or establish a new class title.

SECTION 2. THE PAY PLAN

The pay plan includes the basic salary schedule adopted and amended by the City Council. The salary schedule shall consist of minimum and maximum rates of pay with developmental pay and performance based pay components for all classes of positions included in the position classification plan.

Definitions

Developmental Pay: The developmental pay period is the period where employees are on an accelerated learning curve to learn the duties of their job and the culture of the City. Developmental increases are pre-determined amounts added to based pay which stop when an employee reaches job rate. Developmental increases are automatic, unless there is a clear, documented trail of performance issues and corrective action has risen to the level of the employee file retained in the Human Resources office. Developmental increases occur on the anniversary date of the last pay action.

Job Rate: 20% above range minimum and the rate at which an employee has met their developmental pay period and becomes **eligible** for budgeted performance based pay.

Market/Pay Study: Salary market study of the compensation system to ensure the City's compensation is in line and competitive with other similarly situated organizations.

Market Pay Adjustments: The result of a market/pay study. This adjustment is based solely on the job, not the individual and has nothing to do with quality or quantity of work as is 100% market driven data.

Performance Based Pay (PBP): Pay reserved for the City's best performers. Longevity does not make someone a candidate for performance based pay. These increases may be in the form of a percentage increase to base pay, flat dollar amounts added to base

pay, one-time bonus amounts– it depends on the economic situation at the time and the budget of the City. In what form they are dispersed will be the decision of the City Manager. An employee cannot receive a developmental increase and a performance based pay increase in the same fiscal year. Unlike Market Adjustments, PBP is based on the individual, not the job. These increases will occur at a set time(s) of the year.

Salary Grade: The salary grade is the actual number used to refer to the position such as “This position is in grade 64, 65, 106, etc.”

Salary Range: The salary range is the total spread of potential pay for the position. For example, \$25,000 minimum pay to \$50,000 maximum pay means an employee in that position would be paid no less than \$25,000 annually for performing the duties of the position and no more than \$50,000 annually for performing the duties of the position.

Years of Service (Longevity) Increases: Years of Service (YOS) increases given at 5, 10, 15, 20, and 25 years of service at a value of 2.5% for each YOS anniversary. These increases shall be effective on the nearest payroll date to which the qualifying event occurs.

Maintenance of Pay Plan

The human resources department under the direction of the city manager shall be responsible for the maintenance and administration of the pay plan. The pay plan is intended to provide equitable compensation for all positions when considered in relation to each other, to general rates of pay for similar employment in the private sector and in other public jurisdictions in the area, to changes in cost of living, to financial conditions of the area and other factors. The human resources department will periodically make comparative studies of all factors affecting the level of salary ranges and will recommend to the city manager such changes in salary ranges as appear to be pertinent. Adjustments to the assigned salary level for the class of employees affected will be subject to approval by the city manager.

Transition to a New Pay Plan

The following provisions shall govern the transition to a new pay plan.

- a) No employee shall receive a salary reduction as a result of the transition to a new pay plan.
- b) An employee being paid at a rate lower than the minimum rate established for such employee's class shall be raised to a salary at or above the new minimum for the class.

- c) An employee being paid at a rate above the maximum rate established for such employee's class shall remain at such rate until their salary falls within the established salary range for the classification.

Use of Salary Ranges

Salary ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same class, in providing employee incentive and in rewarding employees for meritorious service. All employees covered by the pay plan shall be paid at a listed rate within the salary ranges established for their perspective job classes except for employees in a trainee status.

Hiring Rate/Starting Salaries

Hiring rates are determined using multiple factors, including, but not limited to, education and experience required for the position, market conditions, internal equity where applicable, and budget constraints. When an applicant meets the minimum requirements, the hiring rate will be the minimum of the pay grade. When an applicant exceeds the minimum requirements and those requirements are needed for the position, concessions may be allowed to hire that applicant at a higher starting salary than range minimum. Above-the-minimum appointments will be based on such factors as the applicant's qualifications where they exceed the minimum experience requirements for the position and market recruitment conditions such as job market competitiveness, talent pool, etc. Department heads wishing to hire above range minimum must complete the New Hire Worksheet for Hiring Managers prior to consulting with the human resources director to determine hiring rates above the range minimum. The human resources director may approve hiring rates up to 15% above range minimum and will refer anything above that to the city manager for approval.

Promotion, Demotion, or Transfer

Promotions:

It shall be the policy of the city to seek qualified applicants for vacant positions giving first consideration to promoting from within and across departmental lines. In the absence of qualified candidates for promotion, vacancies shall be filled by recruiting from the outside. Employees shall be considered for promotion on the basis of job-related experience, skill knowledge and ability; and on a review of the quality of past performance and general suitability for the higher level position. Factors shall not be considered in judging eligibility for promotion that are not job related, such as age, sex, race, color, religion, non-job related handicap, national origin or political affiliation. A department head's recommendation to promote an employee shall be reviewed by the human resources department and the city manager.

When a promotion occurs, if the employee's salary is below the new minimum, it shall be at least increased to the minimum rate of the salary range assigned to the class to which he is promoted. If an employee's current salary is already above the new minimum salary rate, his salary may be increased in accordance with the new responsibilities being assigned to and required of that employee.

- a) Employees receiving a one grade promotion will receive a one-time promotional 5% increase to base pay.
- b) Employees receiving a multi-grade promotion will receive a one-time promotional increase to base pay equal to two developmental pay increases in the employee's current range or will be placed at the range minimum of their new salary range, whichever is higher.

When an employee is promoted, all compensatory time accrued up to the date of promotion will be paid out at the current rate of pay and compensatory accruals will begin on the date of the promotion for the employee at his/her new rate of pay and compensatory accrual rate (exempt v. non-exempt).

Transfers:

It is the policy of the city to transfer employees temporarily or permanently from one department to another when doing so will be in the best interest of the city. A transfer to an authorized vacancy may be arranged upon mutual agreement of all interested administrative officials and the employee.

- 1) When an employee is transferred from the position of one class to the position of another class of the same level, the employee will continue to be paid at the same rate.
- 2) Subject to the following requirements, the pay of an employee transferred to a position of lower classification shall be adjusted within the grade to which the employee is assigned:
 - a) When the transfer is the result of a mutual decision by the employee and the city that such a transfer is in the best interest of both parties, the employee shall remain at the same rate of pay in the lower grade.
 - b) When the transfer is at the sole request of the employee, the employee's pay will be adjusted to the appropriate level of pay within the lower grade. Such an adjustment may result in a decrease in pay.

Unlike when an employee is promoted, there is no accrued compensatory time payout when someone is transferred to another position.

Demotions: The pay of an employee demoted to a position of lower classification shall be adjusted to the new pay grade to which the employee is assigned. This action may result in a decrease in pay.

SECTION 3: PAYROLL DEDUCTIONS

Deductions shall be made for each employee's salary as required by law. Additional deductions may be made upon the request of the employee and on determination of the city manager as to the capability of the payroll system.

SECTION 4. OVERTIME AND SPECIAL DUTY ASSIGNMENT

- 4.01 For the purpose of calculating compensatory time-off and overtime pay, the standard workweek for city employees is 12:01 a.m. Sunday – 12:00 Midnight Saturday. This standard workweek may not be altered without the permission of the city manager.
- 4.02 The city abides by all applicable sections of the Fair Labor Standards Act, the Fair Labor Standards Amendments of 1986, and all subsequent amendments. On the basis of time sheets or time cards submitted by the employees, the city will properly record all applicable overtime accrued for each covered employee.
- 4.03 With the exception of subsection 4.14, this overtime and special duty assignment policy is applicable only to city employees who are nonexempt under the Fair Labor Standards Act ("FLSA").
- 4.04 Employees are expected to work during all assigned periods exclusive of breaks or mealtimes. Except in cases of emergency, employees are prohibited from performing work during any time that they are not scheduled to work unless they receive prior approval from their immediate supervisor. An emergency exists if a condition arises that could reasonably result in injury or harm to a person, damage to property, or that requires the immediate attention of the employee. Employees who work excess hours because of an emergency shall advise their immediate supervisor of the unscheduled work as soon as practical following completion of the work.
- 4.05 It is the policy of the city, in agreement with its employees, that nonexempt employees receive compensatory time-off at a rate of one-and-one-half hours for each hour of overtime worked. Except for law enforcement and fire protection employees, nonexempt employees receive compensatory time-off at the rate of one-and-one-half hours for every hour worked over 40 hours in a standard 7-day workweek. Pursuant to Section 207(k) of the FLSA and 29 CFR Part 553, nonexempt law enforcement employees are entitled to this overtime rate only for hours worked

in excess of 171 hours in a 28-day work period, and nonexempt fire protection employees are entitled to this overtime rate only for hours worked in excess of 159 hours in a 21-day work period.

- 4.06 "Gap" time refers to the hours that fall between a nonexempt employee's regularly scheduled hours and, in the case of an employee who is not subject to the Section 207(k) exemption, the 40 hours that the employee must work before becoming entitled to the overtime premium rate for pay or compensatory time-off. The hourly or salaried pay established in the pay plan for a nonexempt employee who is not paid under the Section 207(k) exemption is the entirety of the pay to be received by the employee for the hours worked during the standard workweek so long as the hours actually worked do not exceed the 40-hour maximum. No additional compensation will be paid or granted for "gap" hours that do not cause the employee to exceed the 40-hour maximum.
- 4.07 The applicability of this subsection of the city employee policies and procedures manual is limited to nonexempt law enforcement and fire protection personnel paid under the Section 207(k) exemption.
- (A) The salary established in the pay plan for a nonexempt law enforcement employee or fire protection employee paid under the Section 207(k) exemption is the only compensation that will be paid to the employee for all of the regularly scheduled hours worked by the employee. For "gap" hours in a non-overtime work period that do not cause a law enforcement employee to exceed 171 hours in a 28-day work period or a fire protection employee to exceed 159 hours in a 21-day work period, such an employee will receive bonus compensatory time-off on an hour-for-hour basis, not the overtime premium rate of one-and-one-half hours, for each hour actually worked in excess of the total number of hours that the employee was scheduled to work during the applicable 28-day or 21-day work period.
- (B) During an overtime work period, such an employee will be paid in cash on a straight time basis for all "gap" time worked and paid in cash on an overtime premium basis (one-and-one-half hours) for every hour worked by a law enforcement employee in excess of 171 hours in a 28-day work period and every hour worked by a fire protection employee in excess of 159 hours in a 21-day work period.
- (C) None of the foregoing provisions are to be interpreted or implemented in a manner that impedes the utilization by management officials of special duty assignments that are compensated with bonus cash payments that are calculated by using the overtime premium rate of one-and-one-half hours. Such bonuses are to be calculated as a separate and distinct form of compensation.

- 4.08 With the exception of holiday leave, when an employee takes leave from work, the compensatory leave time bank must be exhausted prior to using any accrued vacation or sick leave. Because accrued holiday leave expires if not used within a designated timeframe, if an employee has accrued holiday leave, the employee may exhaust the holiday leave bank first and then use any compensatory leave time prior to utilizing vacation or sick time for time away from work. The only exception to using compensatory time-off before accrued vacation and/or sick leave applies to retiring employees leaving in good standing per Article VII's Resignation in Good Standing Policy. During the 12-month period immediately preceding retirement, a retiring employee may work with his or her supervisor to exhaust any accrued vacation leave over the 240 maximum prior to working his or her last day with the city.
- 4.09 In a situation where a nonexempt employee performs work that fails to qualify as overtime work because the employee did not actually work over 40 hours during the standard 7-day workweek, or for a law enforcement employee or a fire protection employee subject to the Section 207(k) exemption who did not work in excess of the threshold amount set for overtime work during the applicable 28-day or 21-day work period, such an employee may receive a bonus in the form of one-and-one-half hours of compensatory time-off for every hour worked in furtherance of the assigned task if the work is designated as a special duty assignment by the employee's division director or department head on the employee's time sheet or time card. Alternatively, a nonexempt employee may receive a bonus in the form of a monetary payment rather than compensatory time-off for work on a special assignment if such work is designated for special duty pay by the employee's division director or department head on the employee's time sheet or time card. Such a bonus shall be calculated on the basis of one-and-one-half times the employee's regular rate of pay for each hour worked on a special duty assignment.
- 4.10 When a nonexempt employee is called back to work outside regularly scheduled working hours, the employee's division director or department head is to evaluate the totality of the circumstances and make a determination as to which of the following options will be utilized:
- (A) The call-back event can be designated as a special duty assignment with the granting of either bonus compensatory time-off or the payment of a monetary bonus as described above in subsection 4.09, and a guarantee that the employee will receive, under this option, credit for no less than 2 hours of special duty assignment work; or
 - (B) The call-back event can be integrated into flexible, alternative scheduling of the employee's work time during the workweek.
- 4.11 Nonexempt law enforcement employees and fire protection employees subject to the Section 207(k) exemption may accrue not more than 480 hours of compensatory time-off. All other nonexempt employees may accrue not more

than 240 hours of compensatory time-off. When the thresholds specified in this subsection are reached, the nonexempt employee will receive a monetary payment of one-and-one-half times the employee's regular rate of pay for each hour in excess of the limits specified in this subsection.

- 4.12 Employees wishing to use accrued compensatory time-off must make a written request to their immediate supervisor. Use of such time will be allowed within a reasonable period following the request as long as the use does not unduly disrupt the operations of the city. Additionally, in order to reduce the amount of accrued compensatory time-off, an employee who has not asked to use accrued compensatory time-off may, nonetheless, be required by his or her supervisor to use that accrued time at the convenience of the city.
- 4.13 Accrued compensatory time-off will be paid upon termination of employment and shall be calculated at the average regular rate of pay for the final three years of employment, or the final regular rate received by the employee, whichever is higher.
- 4.14 Subject to the conditions specified in this subsection, an exempt employee may be granted bonus compensatory time-off or pay to the same extent that such a bonus would be granted to a nonexempt employee for work designated and approved as special duty assignment work by the management official with approval authority for the exempt employee's time sheet or time card. The receipt of bonus compensatory time-off or pay by an exempt employee is subject to the following conditions:
 - (A) The amount of compensatory time-off or pay shall be calculated on an hour-for-hour basis, not at the rate used for nonexempt employees of one-and-one-half hours for each hour of special duty assignment. The maximum amount of time that can be accrued by exempt employees is dependent on whether the employee is subject to the Section 207(k) exemption. If the Section 207(k) exemption is not applicable, the maximum accrual of special duty compensatory time-off allowed by this policy is 240 hours. If the Section 207(k) exemption is applicable to the employee, the maximum accrual of special duty compensatory time-off allowed by this policy is 480 hours. Any special duty compensatory time-off listed on a time record that would cause a leave balance to exceed the above stated amounts shall be disregarded as non-approved special duty compensatory time-off.
 - (B) As with nonexempt employees, exempt employees wishing to use accrued compensatory time-off must make a written request to their immediate supervisor. Use of such time will be allowed within a reasonable period following the request as long as the use does not unduly disrupt the operations of the city. Additionally, in order to reduce the amount of accrued compensatory time-off, an employee who has not asked to use accrued compensatory time-off may, nonetheless, be required by his or her

supervisor to use that accrued time at the convenience of the city. When unusual work scheduling needs arise, the employee and the employee's supervisor should make every effort to fluctuate the schedule to avoid the accrual of compensatory time-off.

- (C) Exempt employees who have been allowed to accumulate compensatory time-off, rather than receiving payment for overtime work, will not be paid for any portion of the accumulated compensatory time-off until the exempt employee is promoted or terminates his or her employment with the city.
- (D) In the event an exempt employee separating from employment with the city is to receive a payment for some or all of the accumulated compensatory time-off, such terminal pay is to be calculated at the employee's final regular rate of pay. While exempt employees can generally accrue up to 240 hours and those subject to the Section 207(k) exemption can accrue up to 480 hours, the maximum terminal pay cannot exceed 120 hours for exempt employees who do not qualify for the Section 207(k) exemption or 240 hours for law enforcement and fire protection employees who qualify for the Section 207(k) exemption. When an exempt employee terminates his or her employment with the city, the balance of any accumulated compensatory time-off that has not been used by the employee prior to the separation from employment or included in the employee's terminal pay in strict accordance with the limits set within this subsection shall be deemed to be forfeited.

SECTION 5: PAYROLL DISCREPANCIES

As a term and condition of employment, an employee who believes he or she has detected a payroll error or discrepancy must **report the issue or concern** in writing to his or her supervisor **within two (2) business days** from receipt of the paycheck or receipt of the notice of the payment of wages via direct deposit that displays the alleged error or discrepancy. It is the policy of the city, in agreement with its employees, that the absence of such a report and acceptance of wages will confirm proper payment for all hours worked.

ARTICLE IV: LEAVES OF ABSENCE

PART A: LEAVE ALLOWANCES

SECTION 1. FAMILY AND MEDICAL LEAVE ACT (FMLA)

The Family and Medical Leave Act was passed by Congress to balance the demands of the workplace with the needs of families. Its purpose is to promote the stability and economic security of families, to promote national interests in preserving family integrity, and to minimize the potential for employment discrimination on the basis of gender by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons.

Eligible Employees

The Family and Medical Leave Act (FMLA) requires employers to grant eligible employees a total of twelve (12) workweeks, or up to twenty-six (26) weeks in the case of military caregiver leave, of job-protected, unpaid leave during any 12-month period for one or more of the following reasons:

- 1) The birth of a child of the employee and in order to care for the child;
- 2) The placement of a child with the employee for adoption or foster care;
- 3) Taking care of the employee's spouse, child, or parent who has a serious health condition;
- 4) A serious health condition of the employee that makes the employee unable to perform the functions of the employee's position;
- 5) A qualifying military exigency when the employee's spouse, son, daughter, or parent who is a covered military member of the National Guard or Reserve is on active duty or called to active duty in support of a contingency operation; and
- 6) To care for a covered service member (a member of the armed services including the Guard and Reserve) if the eligible employee is the spouse, son, daughter, parent, or next of kin, where the service member has a serious illness or injury incurred in the line of active duty that renders the service member unable to perform the duties of his or her office, grade, rank, or rating.

An employee is eligible for FMLA leave if both of the following conditions are met:

- 1) The employee has worked for the City of Asheboro for at least 12 consecutive months; and
- 2) The employee has worked at least 1,250 hours for the City of Asheboro during the 12-month period immediately preceding the beginning of the FMLA leave. Pursuant to the Uniformed Services Employment and Reemployment Rights Act (USERRA), a break in service due to the employee's fulfillment of Guard or Reserve obligations may count toward the 12-month and 1,250-hour requirement.

Definitions

Child. A biological, adopted, or foster child, stepchild, a legal ward, or a child of a person standing "in loco parentis," who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability.

Continuing treatment by a health care provider. Consists of one or more of the following:

1. A period of incapacity lasting more than three (3) consecutive, full calendar days, and any subsequent treatment or period of incapacity relating to the same condition that also includes
 - Treatment two (2) or more times by or under the supervision of a health care provider (i.e. in-person visits, the first within 7 days and both within 30 days of the first day of incapacity); or
 - One treatment by a health care provider (i.e. an in-person visit within 7 days of the first day of incapacity) with a continuing regimen of treatment (e.g. prescription medication, physical therapy, etc.).
2. Any period of incapacity related to pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence.
3. Any period of incapacity or treatment for a chronic serious health condition which continues over an extended period of time, requires periodic visits (at least twice a year) to a health care provider, and may involve occasional episodes of incapacity. A visit to a health care provider is not necessary for each absence.
4. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Only supervision by a health care provider is required, rather than active treatment.
5. Any absences to receive multiple treatments for restorative surgery or for a condition that would likely result in a period of incapacity of more than three (3) days if not treated.

Covered family member. For military caregiver leave, a covered family member is the spouse, son, daughter, parent, or next of kin of an employee who is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious illness or injury.

FMLA Leave Year. The FMLA leave year is defined as a rolling twelve (12) – month period measured forward from the date the employee first takes FMLA leave after completion of any previous FMLA year.

Parent. A biological parent or an individual who stands or stood in "loco parentis" to an employee when the employee was a child. This term does not include parent "in-law."

Qualifying Exigency. An eligible employee may take FMLA leave for qualifying exigencies arising out of the fact that the employee's spouse, son, daughter, or parent is on active duty or has been notified of an impending call or order to active federal duty in the National Guard or Reserves, in support of a contingency operation. Qualifying exigencies may include any of the following as defined in federal law:

- Issues arising from a covered military member's short notice deployment (i.e. deployment on 7 or less days of notice) for a period of 7 days from the date of notification;
- Military events and related activities;
- Certain childcare and related activities;
- Making or updating financial and legal arrangements;
- Attending counseling provided by someone other than a health care provider;
- Taking up to 5 days of leave to spend time with a covered military member who is on short-term temporary, rest and recuperation leave during deployment;
- Attending to certain post-deployment activities; and
- Any other event that the employee and employer agree is a qualifying exigency.

Serious health condition. This refers to an illness, injury, impairment, or physical or mental condition that involves either:

- Inpatient care (i.e. an overnight stay) in a hospital, or residential medical-care facility, including any period of incapacity (i.e. inability to work, attend school/workshops, or perform other daily activities) or subsequent treatment in connection with such inpatient care; or
- Continuing treatment by a health care provider (see Definition 3 above).

Spouse. A husband or wife as defined or recognized under law for the purpose of marriage.

Spouses employed by the City of Asheboro

A husband and wife who are eligible for Family and Medical Leave and are both employed by the City of Asheboro are permitted to take a *combined* total of 12 weeks (480 hours) of leave during a rolling forward 12-month period if the leave is taken for the birth, adoption or foster care placement of a child. When both spouses use a portion of the combined FMLA leave entitlement, both the husband and wife are entitled to the difference between the amount he or she has taken individually and the 12 weeks (480 hours) of leave for other purposes. For example, if each spouse took six weeks (240 hours) of leave for the birth of a child, each could use an additional six weeks (240 hours) in the same rolling forward 12-month period for any other bona fide FMLA covered absence.

Effect of Holidays on FMLA Leave

Regular holidays which occur during a FMLA paid leave period shall not be charged as vacation, sick, or other paid leave, but will be counted towards the 12 week (480 hour) FMLA allowance. Employees whose medical certification returns them to full duty active status from FMLA leave the day following a holiday will receive payment for the holiday.

Intermittent Leave or Reduced Work Schedule

Employees may take leave intermittently or on a reduced schedule to care for the employee's child, spouse, or parent who has a serious health condition, or because the employee has a serious health condition. If such leave does not adversely affect department operations and schedules and is approved by the Department Head and Human Resources, employees may be approved to take leave intermittently or on a reduced work schedule due to childbirth, adoption, or foster care. However, such leave is not required under the FMLA. If intermittent leave is not conducive to department and city operations, the employee may be required to transfer temporarily to an available alternative position at equal pay for which the employee is qualified, but that better accommodates recurring periods of intermittent leave.

Responsibilities

Employee

- A. The employee should notify his supervisor and/or department head and human resources of the need for Family and Medical Leave in accordance with the FMLA notice requirements listed below.
- B. The employee should complete and return all required forms to human resources in a timely manner.
- C. Failure to report at the expiration of the leave, unless an FMLA leave extension or a General Leave of Absence has been requested and granted, shall be considered as a resignation.
- D. If, at any point during FMLA leave, the employee decides not to return to work, the employee shall notify human resources and his department head immediately.
- E. When required by the city, the employee shall provide a fitness for duty statement from his health care provider prior to returning to work.

Employee Leave Notification

In general, the employee must give the employer at least 30 days advance notice of the need to take FMLA leave when he or she knows about the need for the leave in advance and it is possible and practical to do so. For example, if the employee is scheduled for surgery in two months, the need for leave is foreseeable and at least 30 days advance notice is required. If 30 days advance notice is not possible because the situation has changed or the employee does not know exactly when leave will be required, the employee must provide notice of the need for leave as soon as possible and practical. When the employee has no reasonable excuse for not providing at least 30 days advance notice, the employer may delay the FMLA leave until 30 days after the date notice is provided.

When the need for leave is unexpected, the employee must provide notice to the employer as soon as possible and practical. For example, if the employee's child has a severe asthma attack and the employee takes the child to the emergency room, the employee is not required to leave the child to report the absence while the child is

receiving emergency treatment. If the employee does not give timely notice of unforeseeable leave and does not have a reasonable excuse, the employer may delay or deny the FMLA leave. The extent of an employer's ability to delay FMLA coverage for leave depends on the facts of the particular case.

In the case of FMLA leave for a qualifying exigency, the employee must give notice of the need for such leave as soon as possible and practical, regardless of how far in advance the leave is needed.

For planned medical treatment, the employee should consult with the department head prior to scheduling the treatment in order to arrange a schedule that best suits the needs of both the employee and the department.

Supervisor

The supervisor and/or department head should ensure that the employee reports the need for FMLA to the human resources department and shall assist as requested by human resources in the effort to secure supporting documents as needed from the employee.

Light or Transitional Duty under FMLA

The city does not allow "light or transitional duty" upon return to work from FMLA leaves where the employee is requesting such restrictions that would prevent him from performing all of the essential duties of the position. Having said that, should the employee not be able to report to full duty at the expiration of the FMLA leave, the employee should contact human resources and the department head prior to the leave expiration to pursue a request for a reduced or alternative work schedule. When appropriate, requests for "light or transitional duty" under FMLA will be treated as a request for Reasonable Accommodation under the Americans with Disabilities Act and will follow the ADA policy outlined in this manual.

Certification

1. A claim for leave because of adoption shall be supported by acceptable proof of adoption.
2. A claim for leave because of a serious illness of the employee or of the employee's child, spouse, or parent shall be supported by a doctor's certification that includes the following:
 - a. the date on which the serious health condition began;
 - b. the probable duration of the condition;
 - c. the appropriate medical facts regarding the condition;
 - d. a statement that the leave is needed to care for the child, spouse, or parent, and an estimate of the amount of time needed; or that the employee is unable to perform the functions of the position, whichever applies; and

- e. where certification is necessary for intermittent leave for planned medical treatment, the dates on which the treatment is expected to be given and the duration of the treatment.
3. If there is any doubt as to the validity of the certification, the employee may be required to get the opinion of a second doctor designated or approved by the human resources director. The second certification and any recertification shall be at the city's expense.

Employment and Benefits Protection

1. Reinstatement - The employee shall be reinstated to the same position held when the leave began or one of like status, pay, benefits, and other conditions of employment. The human resources director or the department head may require the employee to report at reasonable intervals on the employee's status and intention to return to work. The human resources director also may require that the employee obtain certification that he is able to return to work.
2. Benefits - The City of Asheboro will maintain any employer-paid health benefits while the employee is on FMLA leave. Dependent health coverage or voluntary benefits deduction premiums will be deducted from pay as long as the employee is in paid status. If the employee is not in paid status, payment for these premiums must be paid to the city's human resources department by the end of the month.
3. To the full extent permitted by the FMLA, the city reserves the right to designate as FMLA leave any approved paid or unpaid leave used by an eligible employee for a qualifying FMLA purpose. All accrued compensatory time and accrued paid leave (e.g. vacation, sick, and holiday leave) shall be substituted for unpaid FMLA leave. The Worker's Compensation Leave Section in this manual prescribes the manner in which FMLA leave interacts with workers' compensation leave.
4. As required by law, employees approved for an FMLA leave of absence retain their employment status upon return from the authorized leave.

Conflict of Provisions

The City of Asheboro is committed to fully implementing the FMLA. In cases where the Family and Medical Leave Act and the City of Asheboro Employee Policies and Procedures Manual are in conflict, the Family and Medical Leave will overrule.

SECTION 2. NON-FMLA LEAVE (GENERAL LEAVE OF ABSENCE)

Employees, who are not eligible for FMLA leave or who have exhausted FMLA leave may apply for a general leave of absence for a period of up to one (1) year. The following conditions apply:

- A. General leaves of absence should be requested by the employee at least thirty (30) days prior to commencement in writing to the department head. Leaves necessitated by emergency circumstances must be requested as soon as

possible. Leaves necessitated by an illness or injury must be requested as soon as possible after an illness develops or injury occurs.

- B. All general leaves of absence must be approved by the city manager.
- C. Leave may be granted for reasons of personal or immediate family illness or injury, completion of education, or special work which will permit the city to benefit by the experience gained or work performed; or for reasons that may be of general benefit to the city. General leaves of absence may not be used for vacation.
- D. All employee accrued leave must be used in conjunction with the general leave of absence. Holiday, vacation and sick leave credits will accrue during a general leave as long as the employee is in paid status, but will cease if the employee goes into a leave without pay status.
- E. The employee's group hospitalization and life insurance will continue to be provided for 6 months or as long as the employee is in paid status, whichever is greater. During this six months, the employee will continue to be responsible for any employee only or dependent premium costs for which the employee would normally be responsible. Group hospitalization and life insurance shall be made available to any employee and his or her dependents, with the full cost being paid by the employee, after 6 months on a general leave or when the employee ceases to be in paid status, whichever comes later.
- F. If an employee is in paid status and receives earnings during the general leave of absence, the city will deduct all voluntary benefit premiums from the employee's pay. If the employee is not in paid status or if the amount of the paycheck does not cover the total amount of premiums, the employee is required to make a payment for the difference. If payment is not made by the deadlines set forth, benefits will be cancelled and notification of any COBRA rights will be sent directly to the employee's last known mailing address.
- G. Failure to report for duty at the expiration of a general leave, unless an extension has been requested and granted, shall be considered a resignation.
- H. Other employment while on an authorized general leave of absence for employee medical issues is prohibited. If outside employment is discovered, the general leave may be revoked.

Return to Work

The city will endeavor, to place employees returning from a general leave who have complied with all terms and conditions of the leave into their former position or one comparable in status and pay. However, reinstatement to the exact same position is not guaranteed to employees on general leaves as department needs during the employee absence may necessitate position changes.

If applicable, an employee may be required to provide certification from his/her health care provider that he/she is able to return to work and perform all essential job functions upon return from a general leave of absence.

SECTION 3. UNAUTHORIZED LEAVE

If an employee is absent from work without department head approval or if he/she has exhausted all accrued time and are not on any approved leave, this may be deemed unauthorized leave and disciplinary action may be taken.

PART B: TYPES OF LEAVE

SECTION 1. HOLIDAYS

[The following text will be effective until midnight on December 31, 2018; provided, however, the prescribed 6-month window of opportunity for the use of holiday leave accrued prior to midnight on December 31, 2018 shall survive until this provision expires in accordance with its stated terms.]

The following holidays with pay are authorized for all full-time employees, based on one (1) regular work day per holiday.

New Year's Day
Martin Luther King, Jr. Day
Good Friday
Memorial Day
Independence Day
Labor Day
Thanksgiving - 2 days
Christmas - 3 days

Due to the obligation of the city to provide municipal services on a 24-hour basis, some employees will be required to adhere to a city work schedule that prevents the use of holiday leave on the actual date of a city-recognized holiday. When the city work schedule prevents an employee from availing himself or herself of holiday leave on the actual date of a city-recognized holiday, such an employee may utilize, and the division/department head is to facilitate the employee's use of, the holiday leave time authorized by this section during a 6-month window of opportunity that shall begin to run on the date of the holiday that is the basis of the accrual of the holiday leave time and shall run through the end of the pay period in which the 6-month timeframe concludes. If an employee fails, for any reason, to avail himself or herself of the holiday leave time privilege during the 6-month window of opportunity, the holiday leave time shall be forfeited by the employee.

Unless an employee wishes to use holiday leave on a different date that is otherwise compliant with the adopted holiday leave policy, regular holidays or unscheduled workdays that occur during an employee's vacation, sick, or other designated leave period shall not be considered as vacation, sick, or other leave.

When any of the aforementioned holidays fall on a Saturday or a Sunday, the day(s) observed will be at the discretion of the city manager.

Notwithstanding any other provision in this section, the city manager may suspend any previously approved holiday leave when, in the discretion of the city manager, the city is confronting events or circumstances that require the utilization of extraordinary measures and operations by city forces in order to provide the level of service expected of the city. This authority to suspend holiday leave shall not be construed as placing any employee "on-call." Unless an employee is subject to an on-call policy implemented in the regular course of business by a division or department of the city, the city manager's authority to suspend holiday leave does not require employees to remain on the city's premises or in close proximity to city facilities. Under this provision, an employee's obligation is to have accurate contact information on file with the human resources department so that he or she can be reached when not working and advised to return to work as soon as is practicable. This authority to suspend holiday leave is inapplicable to employees who are using holiday leave as part of an approved FMLA leave or during the 7-day waiting period prescribed by the North Carolina Workers' Compensation Act.

[The following text will be effective on and after January 1, 2019.]

The following holidays with pay are authorized for all full-time employees, based on one (1) regular work day per holiday.

New Year's Day
Martin Luther King, Jr. Day
Good Friday
Memorial Day
Independence Day
Labor Day
Thanksgiving - 2 days
Christmas - 3 days

When any of the aforementioned holidays fall on a Saturday or a Sunday, the day(s) observed will be at the discretion of the city manager. Holidays or unscheduled workdays that occur during an employee's vacation, sick, or other designated leave period shall not be considered as vacation, sick, or other leave.

Due to the obligation of the city to provide municipal services on a 24-hour basis, certain jobs within the city workforce are subject to work schedules that do not permit the halting of operations even for holidays otherwise observed by the city. In the case of an employee who performs a job that, as a matter of routine scheduling, does not permit the halting of operations for the above-listed holidays, the following subsections (A) and (B) are applicable to such an employee:

(A) If a holiday recognized by the city occurs when the employee does not actually work, the employee shall receive, as soon as practicable after the occurrence of the holiday, a supplemental cash payment for each day of the city-recognized holiday in lieu of receiving accrued leave time. The amount of each supplemental cash payment substituted for what would otherwise be an accrued day of holiday leave shall be a monetary sum equivalent to the employee's calculated wages for a normal/regularly scheduled work shift as of the date of the holiday in question.

(B) If an employee actually works a scheduled shift on the date(s) of a city-recognized holiday, the employee shall receive, as soon as practicable after the occurrence of the holiday, a supplemental cash payment for each day of the city-recognized holiday in lieu of receiving accrued holiday leave time. The amount of each supplemental cash payment substituted for the accrual of holiday leave time on each day of the holiday that the employee actually works a scheduled shift shall be the product of the employee's calculated wages for a normal/regularly scheduled work shift, as of the date of the holiday in question, multiplied by a factor of 1.5.

The above-stated provisions in subsections (A) and (B) are only applicable to employees assigned to work shifts that do not permit the halting of operations for holidays. All other city employees are expected to utilize holiday leave in accordance with their adopted work schedule.

Notwithstanding any other provision in this section, the city manager may suspend any previously approved holiday leave when, in the discretion of the city manager, the city is confronting events or circumstances that require the utilization of extraordinary measures and operations by city forces in order to provide the level of service expected of the city. This authority to suspend holiday leave shall not be construed as placing any employee "on-call." Unless an employee is subject to an on-call policy implemented in the regular course of business by a division or department of the city, the city manager's authority to suspend holiday leave does not require employees to remain on the city's premises or in close proximity to city facilities. Under this provision, an employee's obligation is to have accurate contact information on file with the human resources department so that he or she can be reached when not working and advised to return to work as soon as is practicable. This authority to suspend holiday leave is inapplicable to employees who are using holiday leave as part of an approved FMLA leave or during the 7-day waiting period prescribed by the North Carolina Workers' Compensation Act.

SECTION 2. VACATION LEAVE

Basic Accrual

Effective January 1, 2002, each full-time regular employee shall earn vacation leave on a monthly basis in accordance with the following schedule of continuous City of Asheboro service. Periods of 15 calendar days or less during one month shall not be counted, but a period of 16 days or more shall count as a whole month for purposes of calculating leave under this section.

Years of Service	40 Scheduled Hours Per Week Employees	OVER 40 Scheduled Hours Per Week Employees
Less than 5 years	8 hours	10 hours
5, but less than 10 years	10 hours	12 hours
10, but less than 20 years	12 hours	14 hours
20 or more years	14 hours	16 hours

Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each calendar year. On December 31, any employee with more than 240 hours of

accumulated leave shall have the excess accumulation converted to sick leave so that only 240 hours are carried forward to January 1 of the next calendar year.

Manner of Taking

Employees shall be granted the use of earned vacation leave upon request and at those times designated by their supervisor which will least obstruct normal operations of the division or department.

Notwithstanding any other provision in this section, the city manager may suspend any previously approved vacation leave when, in the discretion of the city manager, the city is confronting events or circumstances that require the utilization of extraordinary measures and operations by city forces in order to provide the level of service expected of the city. This authority to suspend vacation leave shall not be construed as placing any employee "on-call." Unless an employee is subject to an on-call policy implemented in the regular course of business by a division or department of the city, the city manager's authority to suspend vacation leave does not require employees to remain on the city's premises or in close proximity to city facilities. Under this provision, an employee's obligation is to have accurate contact information on file with the human resources department so that he or she can be reached when not working and advised to return to work as soon as is practicable. This authority to suspend vacation leave is inapplicable to employees who are using vacation leave as part of an approved FMLA leave or during the 7-day waiting period prescribed by the North Carolina Workers' Compensation Act.

Terminal Pay – Voluntary Separation

An employee who voluntarily separates from employment shall be paid for vacation leave accumulated to the date of separation, not to exceed a maximum of 240 hours provided that the resigning employee gives and works the proper notice, separates in good standing, and returns all city issued property on or prior to the last day worked. Notice requirements and good standing are defined in the Separations and Reinstatements Article or this handbook.

Terminal Pay – Involuntary Separation

When an employee is involuntarily separated from employment, the vacation leave accrual payment is forfeited unless the city manager authorizes a waiver of this provision. Such a waiver will only be granted when the city manager determines, in his sole discretion, that such action is in the best interest of the city.

Death Payment

Upon the death of an employee, compensation for accumulated vacation leave, if any, shall be paid to the estate.

SECTION 3. SICK LEAVE

Sick leave is a benefit granted to an employee for personal sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease when continuing to work might jeopardize the health of others.

Sick leave may be granted to an employee for illness in the employee's immediate family, which requires the care of the employee. For the purpose of this section immediate family shall be deemed to include spouse, parents, and children (including step and/or in-law -relationships).

Sick leave may be used by an employee for the death of an immediate family member. For the purpose of this section, immediate family shall be deemed to include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

Basic Accrual

Each full-time regular employee shall earn sick leave at the rate of eight (8) hours for each month worked. Periods of fifteen (15) calendar days or less during one (1) month shall not be counted but sixteen (16) days or more shall be counted as a whole month for purposes of calculating leave under this section.

Maximum Accumulation

Employees may accumulate unlimited sick leave.

Physician's Certificate

If an employee is out more than three (3) consecutive days he/she will be required to present a physician's certificate prior to his/her return to duty. Failure to produce a required physician's certificate will result in the employee not being allowed to use sick leave. The employee may be allowed to use accrued compensatory time, vacation leave, and/ or leave without pay.

If a department head has reasonable cause to believe that an employee is abusing his/her sick leave privileges, the department head may, with the approval of the human resources director, request a physician's certificate for each occasion on which an employee chooses to use sick leave.

Retirement Credit

Employees who are members of the North Carolina Local Governmental Employee's Retirement System may apply unused sick leave toward retirement credit in accordance with System guidelines. Employees should take note that the application of unused sick leave toward retirement credit is governed exclusively by the North Carolina Local

Governmental Employee's Retirement System. Accordingly, any questions or concerns about this issue should be directed to the North Carolina Local Governmental Employee's Retirement System.

Notification

The employee shall be required to call his/her supervisor no later than one half hour after the scheduled start of the workday to advise him/her when illness prevents his/her reporting to work.

If an employee is away from his/her job for two (2) consecutive days without notice, it shall be assumed that the employee has resigned.

Also, if a physician places any physical restrictions on an employee which will limit the employee's ability to successfully complete the assigned duties of their position, the employee must notify his/her supervisor about those restrictions. This notification must be made as soon as is practical, but not later than the time appointed for the employee to return to duty for their next scheduled work period. Upon receiving such notification, the employee's supervisor must relay this information up the chain of command in order to allow the city to lawfully and appropriately respond to the situation.

Employees shall notify their immediate supervisor when required to use prescription medication that they have been informed has the potential to impair job performance. The employee shall advise the supervisor of the known side effects of such medication and the prescribed period of use. The employee may be temporarily reassigned to other duties, where appropriate.

Advancement

The City Council may, on the recommendation of the city manager, advance sick leave to an employee with five or more years of service who has exhausted his/her sick leave because of a major operation, illness or injury. No advancement can be made to an employee who has a warning concerning sick leave in his/her file. After the employee returns to work, advanced sick leave previously used shall be repaid at the rate of eight (8) hours per month until such time the advanced leave is repaid in full. An employee who has received advanced sick leave and subsequently retires or terminates employment shall repay the city for the balance of the advanced sick leave at a rate of their hourly rate of pay at separation times the number of unpaid hours. In the event of death, liability to the city will cease to exist.

Termination of Employment

All sick leave accumulated by an employee shall end and terminate when an employee resigns or is dismissed by the city. However, at the time of termination, an employee may request that an official record of their unused sick leave balances be made available to them. If a former employee fails to request an official record of their unused sick leave balances at the time of separation of employment, the former employee may file a request with the finance department for an official record of unused sick leave that was accrued during an earlier term of employment. An official record of unused sick

leave balances is not available for employees separated from the City of Asheboro prior to May 10, 2001.

Transfer from Other Agencies/Entities

An individual who is employed by the City of Asheboro in a full-time position and who comes to the city from employment with another agency which participates in the Teachers' and State Employees' Retirement System of North Carolina or the North Carolina Local Governmental Employees' Retirement System may have his/her accrued sick leave transferred to the City of Asheboro under the following guidelines:

- 1) The employee bears the sole responsibility for requesting and obtaining certification of the prior sick leave balance from the former employer.
- 2) The employee's responsibility for obtaining certification of his/her accrued sick leave is not discharged until the employee receives from the Human resources department written acknowledgement of acceptance of the former employers' certification of the amount of accrued sick leave.
- 3) The employee will be credited with his/her certified prior sick leave balance after 1 month's service with the City of Asheboro. Except as provided below in subsection 4, employees rehired by the City of Asheboro will be credited with their prior sick leave balance using the same guidelines as specified above.
- 4) Employees rehired will not be given credit for sick leave earned with the city, if the employee separated during the initial probationary period of employment.

SECTION 4. VOLUNTARY SHARED LEAVE

Section 4. Voluntary Shared Leave

The purpose of voluntary shared leave is to provide economic relief for full-time regular employees who are likely to suffer financial hardship due to an absence.

Eligibility

Only full-time regular employees who have exhausted all accumulated leave are eligible to receive donated leave.

In order to receive voluntary shared leave, an employee must have complied with existing leave rules and:

- Have a medical condition; or have an immediate family member as defined under the FMLA policy whose medical care will require the employee's absence for a period of time;
- Apply to become a recipient of a specified amount of leave time;
- Produce medical evidence to support the need for the requested amount of leave time beyond the available accumulated leave; and
- Upon the recommendation of the human resources director, be approved by the city manager to participate in the program.

Application for Donated Leave

An employee who, due to a serious medical condition of self or of his/her immediate family, faces an absence from work may apply for donated leave by completing a "Voluntary Shared Leave Application" and submitting it to the human resources director. Application may also be made by someone acting on the employee's behalf if the employee is unable to make application.

Before action can be taken by human resources, the application must include a doctor's statement regarding the medical condition of the recipient or FMLA defined family member of the recipient and verification of the need for additional leave. Human resources will edit out all protected health information and forward the request, along with the human resources recommendation for approval or denial, to the city manager for final approval/denial.

Human resources will give written acknowledgement to both the recipient and the donor(s) of his/her request to participate in the program.

Donation of Vacation Leave

Any eligible employee in the city may donate vacation leave to any approved employee. In order to donate leave, an employee must complete a "Voluntary Shared Leave Authorization of Donation of Leave" form and submit it to the human resources director. The donation of leave is subject to the following restrictions:

- (1) All leave donations must be to a designated employee approved by the city manager for receipt of donated leave.
- (2) All donations must be in writing and signed by the donating employee. The employee to receive the donation of leave shall be named and the amount of vacation leave donated shall be specified.
- (3) Any eligible employee may donate vacation leave to any approved employee.
- (4) The maximum donation amount of vacation leave cannot reduce the donor's accrued vacation bank to less than 96 hours.
- (5) For the purposes of voluntary shared leave, all leave donated will be credited to the recipient's sick leave account.
- (6) The minimum amount of leave donated is 4 hours.
- (7) The amount of leave donated to an employee may not exceed the amount of leave requested. Donated leave will be taken in the order received by the human resources department.

Use of Donated Leave

Holidays occurring while the employee is using donated leave will be paid.

Vacation and sick leave will continue to be earned by the employee while he/she is using donated leave.

Available earned leave accrued during this period must be used by the employee prior to continued use of any voluntary shared leave.

Unused Leave

When the recipient returns to work or separates employment due to resignation, death, retirement, or termination, any remaining donated leave balance will be returned to the donors. In calculating the return of donated leave, priority shall be given to the most recent donor(s) in reverse chronological order.

SECTION 5. BEREAVEMENT LEAVE

When a death occurs in an employee's immediate family, an employee shall be granted up to 24 consecutive work hours of bereavement leave. Bereavement leave shall be capped at no more than 48 hours per calendar year.

When a death occurs, the employee is to contact his or her supervisor as soon as possible, but no later than the next business day following the death, to arrange the necessary time-off. Bereavement leave will not be considered as time actually worked for purposes of calculating overtime pay or the accrual of compensatory time-off.

The city may request supporting documentation (obituary or death certificate) to support the request for bereavement leave.

For the purpose of interpreting this section, the term "immediate family" shall be deemed to include spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

SECTION 6. MILITARY LEAVE

An employee who is a member of the National Guard or the Armed Forces Reserve will be allowed ten (10) working days of military training leave annually, with partial compensation. If the compensation received while on military leaves is less than the salary that would have been earned during the same period as an active employee, the employee shall receive partial compensation equal to the difference between the base salary earned as a reservist and the salary that would have been earned during this same period as a city employee. The effect will be to maintain the employee's salary at the normal level during this period of ten (10) working days. If such military duty is required beyond this period of ten (10) working days, the employee shall be eligible to take accumulated annual leave or be placed on leave-without pay status.

While on military leave with partial pay or without pay, the employee's leave credits and other benefits shall continue to accrue as if the employee remained with the city during

this period. Employees who are reservists have all applicable job rights specified in the Veterans Readjustment Assistance Act.

Notwithstanding the above stated provisions, all compensation and benefits authorized by this section shall be paid or accrued in strict accordance with applicable laws and regulations, specifically including without limitation, Internal Revenue Service regulations.

SECTION 7. CIVIL LEAVE

A full-time employee called for jury duty shall receive leave with pay for each day during the required absence without charge to accrued compensatory time or accrued paid leave. An employee may keep fees received for jury duty in addition to regular compensation.

SECTION 8. LEAVE FOR PARENTAL/GUARDIAN INVOLVEMENT IN SCHOOLS

North Carolina law requires employers to grant up to 4 hours per calendar year (not school year) of unpaid leave to any person who is a parent or guardian of a school-aged child so that they can become involved in school activities. The term "school" shall mean any public or private day school, preschool, or child care facility. Leave under this section is subject to the following conditions:

- 1) The leave must be scheduled for a time that is mutually agreeable to the division/department head and the employee;
- 2) The employee must make a written request at least 48 hours before the leave begins; and
- 3) The employee may be required to provide written verification from the child's school that the employee attended or was involved in school activities during the time of the leave.

SECTION 9. ADVERSE WEATHER AND EMERGENCY CLOSINGS

- (A) The purpose of this section is to establish guidelines for accounting for time and releasing employees from work:
 - (1) When adverse weather or some other condition of a serious nature prohibits some employees from reporting to work but does not necessitate the closing of city offices/facilities; and
 - (2) When emergency conditions necessitate the closing of city offices/facilities.
- (B) For the purpose of implementing this section, the phrases listed below shall be defined as follows:

- (1) The term “*adverse weather or other conditions of a serious nature*” means physically severe weather or other conditions of a serious nature that prohibit some employees from reporting to work but do not necessitate the closing of city offices/facilities;
 - (2) The term “*emergency closing conditions*” means conditions that are hazardous to life and safety and that warrant the closing of one or more city offices/facilities. Conditions that may be hazardous to life or safety and that warrant closing city offices/facilities include the following: life threatening weather (e.g. snow, ice, hurricane conditions, tornado, flood, or other natural disaster), fire, equipment failure, disruption of power and/or water service, contamination by hazardous agents, criminal or terrorist acts, or forced evacuations from the work site. When hazardous conditions are present and city offices/facilities are closed, each notice of such a closure shall state the duration of the office/facility closure triggered by the emergency closing conditions described in the notice; and
 - (3) The term “*emergency employee*” means an employee who is required to work during an emergency because his or her position has been designated by the city as mandatory/essential to city operations during an emergency.
- (C) City offices/facilities shall be open during normally scheduled operating hours unless and until a specific decision has been made by the city manager or his designee to close one or more city offices/facilities because of the existence of emergency closing conditions.
- (D) Regardless of the existence of adverse weather, other conditions of a serious nature, or emergency closing conditions, some city operations must continue to provide services. Therefore, division/department heads, in consultation with the human resources director, shall predetermine and designate the mandatory/essential operations that will remain open when one or any combination of the hazardous conditions referenced above is present and shall also designate the emergency employees that will staff these operations. The city manager shall make the final decision as to which operations are designated as mandatory/essential and as to which job positions are designated as those of emergency employees.
- (E) Division/department heads, in consultation with the human resources director, shall develop written procedures for the implementation of this section. These procedures shall be consistent with this section and shall include, at a minimum, the following topics:
- (1) The methodology to be used to advise employees of office/facility closures;
 - (2) The designation and notification of employees deemed to be emergency employees;
 - (3) The methodology for notifying emergency employees of their schedules during emergency closing conditions;

- (4) A clear and unequivocal explanation that general closing announcements for city offices/facilities do not apply to emergency employees unless specific instructions to the contrary are transmitted to the emergency employees in accordance with the communication procedures adopted by the division/department; and
 - (5) For each division/department, employees will be informed whether, and under what conditions, the operational needs of the division/department allow management the opportunity to arrange schedules so as to give employees who are not emergency employees the opportunity to make up time not worked rather than charging the time not worked to accrued leave or entering leave without pay status.
- (F) An emergency employee's failure to report to work can result in disciplinary action and/or requiring the hours missed to be charged to leave with or without pay, as appropriate.
- (G) This division addresses the issue of accounting for time during adverse weather or other conditions of a serious nature.
- (1) It is the responsibility of employees to make a good faith effort to come to work during times that adverse weather or other conditions of a serious nature exist.
 - (2) Employees who have not been designated as emergency employees and who anticipate problems in transportation should be permitted and encouraged to avail themselves of leave privileges when encountering difficulty in reporting for work or when leaving early.
 - (3) To cover absences from assigned work sites during adverse weather or other conditions of a serious nature, employees who have not been designated as emergency employees are permitted to elect to use, to the extent that a particular employee may have accrued one or more of the types of leave listed below, one of the following options:
 - (a) To use accrued holiday leave time;
 - (b) To use accrued compensatory time-off leave;
 - (c) To use vacation leave;
 - (d) Take leave without pay; or
 - (e) If the option is available within the employee's division/department, make up the time in accordance with the written guidelines adopted by the employee's division/department. If a division/department has not adopted such guidelines, the option of making up time is not available to the employee.

- (4) Employees who are on prearranged holiday leave, vacation leave, or sick leave will charge leave to the preapproved category of leave regardless of the event involving adverse weather or any other condition of a serious nature.
- (H) When emergency closing conditions are not a city-wide event and the operational needs of the division/department permit this action, the city manager, in his or her sole discretion, may authorize division/department heads to temporarily reassign employees within their divisions/departments to alternate work sites for the duration of the emergency closing conditions.
- (I) When the emergency closing conditions are a city-wide event and the operational needs of the division/department will allow the opportunity for work to be productively conducted at home, the city manager, in his or her sole discretion, may authorize division/department heads to approve the conduct of compensable city work from home by designated employees for a limited duration of time that is not permitted to exceed the duration of the emergency closing conditions.
- (J) This division addresses the issue of accounting for time during emergency closing conditions when employees are not assigned to alternate work sites or allowed to work from home.
 - (1) In the absence of either a designation as an emergency employee or an assignment to work from an alternate site/home, the employee will not be required to charge the time away from work to any of the employee's accrued leave balances.
 - (2) An emergency employee required to work during the time period specified in the notice of the closure of city offices/facilities shall be granted compensatory time-off for the employee's work during the emergency closing conditions (for the purpose of payroll administration, this work shall be deemed to be a special duty assignment); provided, however, the accrual of compensatory time-off pursuant to this section shall be calculated on an hour-for-hour basis, not 1.5 hours for every hour worked, for all hours actually worked during the time period specified in the closure notice authorized by the city manager. This accrued compensatory time is to be used before any vacation or sick leave is used.
 - (3) If additional employees who were not initially designated as emergency employees are needed for situations such as clean-up and recovery operations during the effective date(s) and time(s) of an emergency closure notice, the city manager may elect to compensate such employees in the same manner as employees who were designated emergency employees in advance of the emergency closing conditions.
 - (4) Employees who are on prearranged holiday leave, vacation leave, or sick leave will charge leave to the preapproved category of leave regardless of the existence of emergency closing conditions.
- (K) Notwithstanding any other provision found herein, this section shall not be interpreted and/or implemented in a manner that creates any violation of or

nonconformity with the applicable federal and state wage and hour laws, specifically including without limitation the Fair Labor Standards Act (FLSA). By way of illustration and not limitation, nothing in this section shall be construed in a manner that prevents a non-exempt employee from receiving compensatory time-off at the rate of 1.5 hours for every hour worked over 40 hours in a 7-day workweek. Similarly, no deductions shall be made from an exempt employee's pay that would call into question the employee's status as an exempt employee.

SECTION 10. WORKERS' COMPENSATION LEAVE

The City of Asheboro is subject to the North Carolina Workers' Compensation Act. Employees are required to report in writing all injuries arising out of and in the course of their employment with the city to their immediate supervisor at the time of the injury in order that appropriate action may be taken at once.

Subject to the provisions of the North Carolina Workers' Compensation Act and all applicable laws, rules, and regulations pertinent to workers' compensation claims, the following City of Asheboro guidelines shall be applicable to all claims submitted by city employees on and after April 11, 2008:

- (A) Employees may utilize accrued compensatory time and accrued paid leave during the 7-day waiting period prescribed by the North Carolina Workers' Compensation Act. If an employee elects to use accrued compensatory time or accrued paid leave during the 7-day waiting period, all of the available accrued compensatory time shall be used prior to the utilization of any accrued paid leave time. With the commencement of weekly benefits in accordance with the North Carolina Workers' Compensation Act, neither compensatory time nor accrued paid leave time may be used by an employee to supplement the statutorily prescribed weekly benefits. An employee will not be required to reimburse the city for payments made by the city during the 7-day waiting period.
- (B) On the eighth day of the authorized absence, the employee will automatically be placed on Workers' Compensation leave. Once the statutorily prescribed weekly benefits and Workers' Compensation leave have begun, qualified employees will be placed on FMLA leave. The FMLA leave and Workers' Compensation leave shall run concurrently with each other.
- (C) Timesheets must reflect Workers' Compensation leave on the days in which leave is taken.
- (D) Employees will not be required to use accrued compensatory time or accrued paid leave when appointments have been properly made during scheduled work hours as part of the process to resolve a claim filed under the North Carolina Workers' Compensation Act. This use of regular work hours shall be limited in duration to the reasonable period of time needed to satisfy the purpose of the scheduled appointment, including travel time. Employees should try to schedule appointments at a time most convenient for their work unit. The employee is expected to return to work after the appointment has been concluded, unless the authorized health care provider has restricted the employee from doing so.

- (E) The city encourages early return to work for employees who suffer work related injuries or illnesses. If the healthcare provider determines that the injured employee cannot return to their job without restrictions, a modified work assignment or reassignment to a different job will be considered. In all cases, division/department heads are expected to consult with the human resources director and to work with employees to identify modified duty opportunities, with the primary focus being the return of the employee to their regular job. Employees who return to a modified duty assignment must perform the work within the restrictions indicated by the healthcare provider. Failure to report to a modified duty assignment may result in disciplinary action. Employees are responsible for providing their division/department head with written notice of any change in restrictions by the healthcare provider. The modified duty assignment will end when the employee reaches maximum medical improvement.
- (F) Employees must report to their next scheduled shift once the healthcare provider releases them to work. If the employee reaches maximum medical improvement but cannot return to the original job, the human resources director will consider all other options available under the city's employment policies.
- (G) Employees receiving Workers' Compensation benefits will not accrue vacation or sick leave and their local government retirement and 401k benefits are not paid during this period except as applied to Law Enforcement Officers only as outlined in NCGS 128-26.

In compliance with Section 160A-164.1 of the North Carolina General Statutes, the provisions of this Section shall be deemed to be applicable in all respects to city employees that are absent from work due to an adverse medical reaction resulting from the employee receiving in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, Section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002) (to be codified at 42 U.S.C. sec. 233(p)).

SECTION 11. LEAVE WITHOUT PAY

Leave without pay (LWOP) should only be used for emergency situations. This option is not allowed for vacations. Management may deny taking time off without pay if it causes a hardship for the department. If an employee is ineligible to request leave on the basis of any other provision in the City of Asheboro Employee Policies and Procedures Manual, the employee, with the recommendation of his or her division/department head may be granted a leave of absence without pay by the city manager. The decision as to whether to grant the requested leave shall be at the sole discretion of the city manager. Employees are responsible for the full cost of all insurance premiums and do not earn any sick, vacation or holiday accrual credits on the date the authorized leave without pay begins.

ARTICLE V: BENEFITS

SECTION 1. PURPOSE

The city recognizes the need to provide certain fringe benefits to city employees in order to recruit and maintain qualified employees and as an incentive for seeking employment with the city.

SECTION 2. ELIGIBILITY

All full-time employees of the city and others as specifically provided herein shall be eligible for employee's benefits as provided for in this Article.

SECTION 3. GROUP HEALTH AND HOSPITALIZATION INSURANCE

(A) For the limited and sole purpose of interpreting and implementing the group health and hospitalization insurance benefits described in this section of Article VI, the following definitions and rules of interpretation shall be applicable exclusively to Article VI, Section 3 of the City of Asheboro Employee Policies and Procedures Manual (hereinafter referred to as the "Manual"):

- 1) The term "Part-Time Employee (Extended Hours)" means an employee who is reasonably expected by the city to average working twenty-six (26) or more hours per week.
- 2) The term "Part-Time Employee (Variable/Seasonal Hours)" means an employee who is reasonably expected by the city to average working less than twenty-six (26) or more hours per week during the designated measurement period. This term includes an employee for whom, based on the facts and circumstances known at the time of the employee's hire date, the relevant division/department head has made the determination that, even though the employee is expected to average working more than twenty-six (26) or more hours per week for a limited duration of time, it cannot be determined that the employee is reasonably expected to work, on average, at least twenty-six (26) or more hours per week over the course of the designated measurement period.
- 3) Aside from elected officials, when evaluating an employee's eligibility for group health and hospitalization insurance benefits, all employees shall be categorized as either a full-time, part-time (extended hours), or part-time (variable/seasonal hours) employee.
- 4) The term "Part-Time Employee (Variable/Seasonal Hours)" shall include the "Seasonal Recreational Employees" described in Article II, Section 4 of the Manual.
- 5) In contrast to the above-stated definitions, the term "Full-Time Employee" shall have the same meaning as stated for the term in Article II, Section 2 of the Manual.

- 6) The term "Ongoing Employee" shall mean any city employee, exclusive of elected officials, who has been employed by the city for at least one (1) complete Standard Measurement Period.
 - 7) The term "Standard Measurement Period" means the 12-month period of time extending from April the 15th of a calendar year to April the 14th of the following calendar year.
 - 8) The term "Administrative Period for an Ongoing Employee" means the 76-day period of time extending from April the 15th of a calendar year to June the 30th of the same calendar year.
 - 9) The term "Stability Period for an Ongoing Employee" means a 12-month period of time extending from July the 1st of a calendar year to June the 30th of the following calendar year. This Stability Period for an Ongoing Employee matches the city's fiscal year and the plan year for the city's group health and hospitalization insurance.
 - 10) The term "Initial Measurement Period for a New Employee" means a 12-month period of time that is measured from the new employee's hire date.
 - 11) The term "Administrative Period for a New Employee" means the period of time utilized by the city to perform the calculations and administrative tasks needed to determine if a new employee is eligible, on the basis of the hours worked during the above-referenced initial measurement period, for coverage under the city's group health and hospitalization insurance. This time period shall extend from the end of the Initial Measurement Period for a New Employee to the end of the first full calendar month immediately following the end of the said initial measurement period.
 - 12) The term "Corresponding Stability Period" means the 12-month period of time that immediately follows the Administrative Period for a New Employee.
- (B) Any Full-Time Employee, Part-Time Employee (Extended Hours), and elected official will be provided group health and hospitalization insurance at no cost. This group insurance shall be made available to employees' dependents on a participating basis. Eligibility for group health and hospitalization insurance will be effective the first day of the month following one full month of employment or the taking of office.
- (C) Part-Time Employee (Variable/Seasonal Hours) will not be eligible for any group health and hospitalization insurance benefits unless, after utilizing the following evaluation periods and methodologies, the employee is found to have worked an average of twenty-six (26) or more hours per week during the relevant measurement period. If a Part-Time Employee (Variable/Seasonal Hours) is found to have worked an average of twenty-six (26) or more hours per week during the relevant measurement period, such an employee will be eligible, during the entire duration of the stability period that follows the relevant measurement period, for the same group health and hospitalization insurance benefits provided to a Full-Time

Employee or a Part-Time Employee (Extended Hours). The on-going evaluations of a Part-Time Employee (Variable/Seasonal Hours) in terms of eligibility for group health and hospitalization insurance benefits will be conducted as follows:

- 1) In the case of an Ongoing Employee who is not already eligible for the group health and hospitalization insurance benefit as a Full-Time Employee or a Part-Time Employee (Extended Hours), the city shall use the above-defined Standard Measurement Period as a look-back period prior to the beginning of the city's next plan year and associated open enrollment period in order to determine if any employee not currently eligible for the group health and hospitalization insurance benefit is now eligible for the benefit because of working an average of twenty-six (26) or more hours per week during the Standard Measurement Period. During the Administrative Period for Ongoing Employees, which runs from April the 15th to June the 30th of each year and overlaps with the open enrollment period for insurance, each Part-Time Employee (Variable/Seasonal Hours) will be evaluated in order to determine if the employee worked an average of twenty-six (26) or more hours per week over the course of the immediately preceding Standard Measurement Period. If the employee did average working twenty-six (26) or more hours per week during this look-back period, the unreduced group health and hospitalization insurance benefit will be offered to the employee for the entirety of the ensuing plan year (July 1 to June 30) that matches the 12-month Stability Period for an Ongoing Employee. The group health and hospitalization insurance benefit will not be offered to employees who did not average working twenty-six (26) or more hours per week during the prior measurement or look-back period.
- 2) A supplemental measurement or look-back period will be utilized for a newly hired Part-Time Employee (Variable/Seasonal Hours) in order to ensure that an otherwise eligible employee does not go too long without coverage if he or she is otherwise eligible for the group health and hospitalization insurance benefit and has not been evaluated under the Standard Measurement Period after twelve (12) months of beginning work because of the date on which the employee was hired. When such an employee is initially hired, he or she will not be eligible for the group health and hospitalization insurance benefit. The city will apply, on the employee's hire date, a 12-month Initial Measurement Period for a New Employee as a look-back period for a new employee whose status is unclear in terms of the number of hours that will be worked per week over the course of the adopted measurement period. At the conclusion of the initial 12-month measurement period, the city will utilize the Administrative Period for a New Employee in order to evaluate whether an average of twenty-six (26) or more hours per week were worked by the new employee over the course of the immediately preceding Initial Measurement Period for a New Employee. If the employee did average working twenty-six (26) or more hours per week during this initial look-back period, the unreduced group health and hospitalization insurance benefit will be offered to the employee for the entirety of the following 12-month Corresponding Stability Period. The group health and hospitalization insurance benefit will not be offered to employees who did not average working twenty-six (26) or more hours per week during the prior measurement or look-back period. As a matter of clarification, the following illustration and a separate interpretative provision are offered:

- (a) Example of the Application of the Preceding Measurement, Administrative, and Stability Periods for a New Employee: If an employee is hired on May 15, 2014, the Initial Measurement Period for a New Employee will run from May 15, 2014, to May 14, 2015. In this case, the Administrative Period for a New Employee would run from May 15, 2015, to June 30, 2015, and the Corresponding Stability Period would run from July 1, 2015, to June 30, 2016.
 - (b) In the example above, any subsequent coverage would be determined on the basis of the provisions established earlier in this Section for the evaluation of an Ongoing Employee. As soon as the new employee has worked long enough to be evaluated on the basis of the Standard Measurement Period, regardless of whether the employee is still within the previously calculated Corresponding Stability Period, a determination shall be made by utilizing the Standard Measurement Period, Administrative Period for an Ongoing Employee, and the Stability Period for an Ongoing Employee as to whether the employee is eligible for the group health and hospitalization insurance benefit under these criteria. Any such supplemental evaluation shall operate to the advantage of an employee and shall not serve to reduce an employee's eligibility for the group health and hospitalization insurance benefit under a previously calculated stability period.
- (A) Other insurance programs which will serve the needs of the employees of the city may be offered through payroll deductions.
 - (B) Information concerning the cost and benefits of the insurance program shall be available to all employees through the human resources department. Booklets explaining the program will be available to all employees.

SECTION 4. GROUP HEALTH AND HOSPITALIZATION INSURANCE FOR RETIRING EMPLOYEES

Employees who retire under the North Carolina Local Government Employee Retirement System may be entitled to a continuation of Group Health and Hospitalization Insurance at the city's expense under the following circumstances:

- 1) 30 years of service with the North Carolina Local Governmental Employees' Retirement System and 15 years continuous service with the City of Asheboro.
- 2) Any other qualification for retirement with the North Carolina Local Governmental Employees' Retirement System and 20 years of service with the City of Asheboro.
- 3) An employee who qualifies for disability retirement with the North Carolina Local Governmental Employees' Retirement System.

The city will provide this employee only coverage for the retiree only until the retiree reaches age 65. If at any time prior to age 65, a covered retiree and/or covered dependent becomes eligible for Medicare, he/she must change his/her medical coverage to the Medicare Supplement Plan if coverage is to continue with the City of

Asheboro. If applicable the dependent(s) shall be offered coverage under the COBRA plan.

Retirees not qualifying for health insurance coverage paid for by the City of Asheboro may elect to continue this coverage for themselves and their dependents at their own expense, until the retiree reaches age 65. If at any time prior to age 65, a covered retiree and/or dependent becomes eligible for Medicare, he/she must change his/her medical coverage to the Medicare Supplement Plan if coverage is to continue with the City of Asheboro.

All individuals retiring prior to the effective date of this policy (May 6, 1999) shall not be affected by these guidelines. Benefits bestowed upon those individuals will remain in effect as stated in the Employee Policy which was in effect at the time of their retirement.

Other group benefits may be available to retiring employees at their expense under provisions provided by the group benefits package.

SECTION 5. NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

Each full-time employee shall be required to join the Local Governmental Employees' Retirement System (LGRS) as a condition of employment, effective on the date of employment. While no waiting period is established for joining LGRS, this section does not and shall not be construed in any manner to impair or impact to any degree the conditions of probationary employment found in this manual.

SECTION 6. SPECIAL SEPARATION ALLOWANCE FOR LAW ENFORCEMENT OFFICERS

In accordance with N.C. Gen. Stat. § 143-166.42, all eligible sworn law enforcement officers employed by the City of Asheboro shall receive, beginning on the last day of the month in which he/she retires on a basic service retirement, an annual separation allowance. The retiring officer's initial eligibility for the special separation allowance and the formula to be used in calculating the amount of the allowance shall be determined by city staff members in the finance and human resources departments in strict compliance with the applicable statutes and administrative regulations, specifically including without limitation the above-cited statutory provision.

The cessation of the above-described payments to a retired officer shall be governed by the provisions listed below.

- (1) Subject to the following subsection (2), payment to a retired officer under the provisions of this section shall cease at the first of the following occurrences:
 - (a) The death of the officer;
 - (b) The last day of the month in which the officer attains 62 years of age; or

- (c) The first day of reemployment by a local government employer in any capacity.
- (2) Notwithstanding any other provision contained within this section, payments to a retired officer shall not cease when a unit of local government employs a retired officer for any of the following:
 - (a) In a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System; or
 - (b) In service to a county board of elections on an election day in a capacity that complies with G.S. 128-21(19) and does not result in cessation or suspension of the retiree's benefit from the Local Governmental Employees' Retirement System.
- (3) If a retired officer's receipt of the special separation allowance is terminated because of the individual's reemployment with a local government employer, payment of the special separation allowance cannot be resumed at a later date.

SECTION 7. GROUP LIFE INSURANCE

The city will provide group life insurance for each full-time employee and elected officials based on positions. Employees may elect to insure other members of their family under this plan at their expense.

SECTION 8. EMPLOYEE ASSISTANCE PROGRAM

The city has an Employee Assistance Program (EAP) to help employees address a wide range of personal issues. This confidential counseling service is available to employees and their family members. City employees are encouraged to use the EAP when they are experiencing problems that impact their ability to be productive at work. Employees may choose to go to the EAP on their own, or they may be encouraged to use the EAP by their supervisor. Referral to or participation in the EAP does not pre-empt the utilization of any other provision in this manual.

The city will not have access to EAP records without written permission from the employee. All individual rights to confidentiality will be assured in the same manner as any other health records. Using the EAP services will not jeopardize an employee's employment status or promotion possibilities. With approval of the supervisor, employees may use accrued leave for a scheduled EAP appointment. The initial three EAP visits are provided to the employee without charge. After the initial visits, the EAP may recommend additional assistance, the cost of which will be the responsibility of the employee. These costs may be covered by medical insurance or available through a community-funded or self-help organization.

Notwithstanding any provision to the contrary, the EAP shall be deemed to be supplemental to the city's Substance Abuse Policy found in this manual. If a conflict arises between the provisions found in the description of the EAP and the adopted Substance Abuse Policy, the provisions found in the Substance Abuse Policy shall be the controlling authority.

SECTION 9. BRIDGING OF BENEFITS POLICY

Effective January 1, 2017 and not retroactively, the City is implementing the following bridging of benefits policy for rehired employees.

Purpose

Where business needs dictate, it is the policy of the city to rehire former employees who: (a) voluntarily left city employment in good standing as defined by city policy or (b) were laid off due to business need(s). This policy sets forth the city's philosophy governing eligibility for reemployment and associated bridging of service (service recognition) and benefits.

Service Restoration Rules for Eligible Employees

If a former employee with less than one year's prior service is rehired, the employee will be considered a new employee and this policy will not be applicable.

If a former employee with more than one year's prior service is rehired within three years, the employee's waiting period for certain benefits will be waived and the employee's years of service for the purpose of vacation leave accrual only will be reinstated. This policy does not apply to the calculation of Years of Service (Longevity) Increases under the city's pay plan.

ARTICLE VI: GENERAL WORKPLACE POLICIES/CONDITIONS OF EMPLOYMENT

SECTION 1: GIFTS AND FAVORS

No official or employee of the city shall accept any valuable gift whether in the form of service, loan, thing, or promise from any person who, to their knowledge, is interested directly or indirectly in any manner whatsoever in doing business with the city which may tend to influence the discharge of duties, or grant any improper favor, service, or thing of value in the performance of their duties.

SECTION 2: OUTSIDE AND DUAL EMPLOYMENT

The work of the city shall have precedence over other occupational interests of employees. All outside employment for salary, wages, or commissions and all self-employment must be reported to the employee's department head. Outside employment is subject to review by the city manager to determine whether or not such employment is in conflict with the interest of the city. Continuation of conflicting outside employment may be grounds for disciplinary action, up to and including dismissal.

Part-time employees of the city may hold another part-time position with the city with the approval of the city manager.

SECTION 3: POLITICAL ACTIVITY RESTRICTED

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 United States of America. However, no employee shall (1) engage in any political or partisan activity while on duty; (2) use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office; (3) be required as a duty of employment or as a condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes; (4) coerce or compel contributions for political or partisan purposes by another employee of the city, or (5) use any supplies or equipment of the city for political or partisan purposes.

SECTION 4. VEHICLES OWNED BY THE CITY

Any employee required as part of the essential functions of his or her job to be able to operate a city-owned vehicle must possess a valid driver's license. Use of a city-owned vehicle by an employee is neither a right nor a privilege but a trust conferred to facilitate necessary performance of duties. City-owned vehicles shall be assigned and used only in the performance of official duty and not for any personal use.

SECTION 5. TELEPHONE AND ADDRESS

All city employees must provide and maintain up-to-date, valid telephone numbers and addresses on file in the human resources department and with their supervisor. All department heads shall have listed telephone numbers. Exceptions in unusual circumstances may be granted by the city manager.

SECTION 6. WORKPLACE VIOLENCE

The City of Asheboro has a zero-tolerance policy relating to the communication of threats, harassment whether it be verbal or physical, physical assaults, or any other forms of inappropriate, intimidating, or unreasonably aggressive behavior. This type of behavior is unacceptable and, in terms of implementing the disciplinary actions prescribed in the City of Asheboro Employee Policies and Procedures Manual, shall be deemed to constitute improper personal conduct. Employees found in violation of this policy shall be subject to discipline as provided in the disciplinary action article of this manual. In addition to any disciplinary action(s) taken pursuant to the city's employee policies and procedures, employees violating this policy may be subject to criminal prosecution.

Furthermore, employees should promptly inform the human resources director of any protective or restraining order that they have obtained that lists the workplace as a protected area. Employees are encouraged to report safety concerns with regard to intimate partner violence. The city treats threats coming from an abusive personal relationship as it does any other form of violence. The city will not retaliate against employees making good-faith reports and is committed to supporting victims of intimate partner violence by providing referrals to the city's Employee Assistance Program (EAP) and any other community resources.

SECTION 7. WORK-RELATED INJURIES AND ACCIDENTS POLICY

The City of Asheboro places the highest priority on creating and maintaining a safe work environment. The establishment of a consistently safe workplace is essential to the city's operations and to the city's commitment to comply with all applicable laws pertaining to safety in the workplace. In furtherance of the commitment to create a safe work environment, employees are expected to assist the city in maintaining safe working conditions. The provisions found in this section apply to all employees while at work or engaged in work-related activities.

Employees are expected to follow common-sense safety practices and to correct or report any unsafe condition to their supervisors. Similarly, as soon as one or more employees realizes that a work-related accident, injury, or illness has occurred, any employee with knowledge of the incident is required to report the occurrence to their supervisors as quickly as is practicable. The detailed reporting procedures and safety policies for varying subject areas with which employees are required to comply are stated in the City of Asheboro Safety Policy Manual (the "Safety Manual").

On the basis of a delegation of authority from the Asheboro City Council, the City Manager will utilize the Safety Manual to implement the city's commitment to creating and maintaining a safe work environment. The implementation of a safe work environment will include the use of the Safety Manual to conform the city's policies, procedures, and practices to the standards (or rules) adopted by the North Carolina Division of Occupational Safety and Health (hereinafter the "NC OSH"). By way of illustrating and not limiting the delegation of authority granted to the City Manager in the interest of creating and maintaining a safe work environment, the policies contained within the Safety Manual may include allowances for the use of paid leave not otherwise established in the city's employee policies and procedures manual so long as the paid leave allowance authorized within the Safety Manual is limited to the amount of leave strictly necessary for compliance with the standards adopted by NC OSH.

The Safety Manual shall be available for review by employees upon request. Any difficulty encountered by an employee in accessing the Safety Manual shall be reported immediately to the employee's supervisor. With respect to any safety related concern, an employee is authorized to communicate with the Safety Manager, Human Resources Director, and/or City Manager without fear of facing disciplinary action for violating the "chain of command."

Employees are expected to report to work during each scheduled workday able to safely and competently perform their job duties. If employees are unable to safely or competently perform their job duties for any reason, they are required to inform their supervisors without any unnecessary delay. Additionally, employees who observe or experience unsafe working conditions have the right, and are required, to report the unsafe working condition(s) to their supervisors as quickly as possible.

All work-related accidents, injuries, and illnesses, even those that may not initially be deemed to be serious, must be reported as soon as is practicable to supervisors. Employees who experience a work-related accident, injury, or illness are to use their best efforts to complete the appropriate forms and to cooperate to the best of their ability with the city's efforts to comply with the applicable recording, reporting, and investigation obligations.

The city can only become a safer and healthier place for everyone to work by gaining full knowledge of every workplace accident, injury, or illness. Employees' notification to the city of unsafe work conditions or of workplace injuries or illnesses is essential.

Employees are hereby assured that they will not be penalized in any way for reporting unsafe working conditions or for reporting work-related injuries or illnesses. All employees have the right to report unsafe working conditions or to report a work-related injury or illness.

All employees have the right to address any questions about this policy to the Safety Manager, Human Resources Director, and/or the City Manager.

ARTICLE VII: SEPARATIONS AND REINSTATEMENTS

SECTION 1: RESIGNATION

Employees are required to complete a Resignation Form with human resources prior to the effective date of the resignation.

Resignation in Good Standing

Resignation in Good Standing occurs when an employee submits and works the required written notice of resignation outlined below. Such notice shall be provided to the immediate Supervisor. An employee who resigns in "Good Standing" may be considered for future employment with the city.

Notice of Separation Requirements

The required written notice is two (2) weeks (10 business days) for all employees except senior management (department/division Heads/city manager/city attorney). The required written notice for senior management is four (4) weeks (20 business days) prior to the effective date of resignation.

Notice requirements are not met if the employee gives a notice and proceeds to take compensatory accrued time, vacation, sick, or holiday leave during that required notice period. In order to be considered as meeting the requirements of the written notice, the employee must actually work 10 business days (non-supervisory) or 20 business days (supervisory).

Resignation Not in Good Standing

A resignation "Not in Good Standing" occurs when:

1. An employee fails to submit and work the required written notice.
2. An employee fails to report to work following a general leave of absence;
3. An employee fails to return all city issued equipment;
4. An employee resigns to avoid announced disciplinary action.

An employee who leaves city employment under items 1-3 above will forfeit all vacation leave accrual payment. An employee who resigns from city employment "Not in Good Standing" is normally ineligible for future employment with the city.

The provisions of the resignation section pertaining to notice requirements and the actions required to resign in good standing may be waived in whole or in part by the city manager. Such a waiver will only be granted when the city manager determines, in his sole discretion, that such an action is in the best interest of the city.

SECTION 2. REDUCTION IN FORCE

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's past performance, the needs of the city and the seniority of the employees to be retained. Employees who are laid off because of a reduction in force shall be given at least two weeks' notice. No regular employee shall be separated 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.

SECTION 3. DISABILITY

An employee may be separated for disability when the employee cannot perform the required duties because of a physical or mental impairment. Action may be initiated by the employee or the city but in all cases it shall be supported by medical evidence as certified by a competent physician. The city may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the city's service for which the employee may be suited.

SECTION 4. RETIREMENT

An employee who meets the conditions set forth under the provisions of the North Carolina Local Government Employees' Retirement System may elect to retire and receive all benefits under the retirement plan.

SECTION 5. DEATH

All compensation due in accordance with this ordinance will be paid to the estate of the deceased employee. The date of death shall be recorded as the separation date for computing compensation due.

SECTION 6. DISMISSAL

An employee may be dismissed on the basis of job performance or on the basis of personal conduct as outlined in the disciplinary action article of this manual.

SECTION 7. SEPARATION PROCEDURES

When an employee is to separate from service with the city for any reason other than an involuntary separation, the following procedures will be used to process the separation:

The resigning employee should complete the Resignation Form with human resources as soon as possible. During the employee's notice period, the employee's immediate supervisor and/or department head will verify, using the proper form, that all city property in the care of the separating employee has been returned in acceptable condition. Such property may include vehicles, tools, keys, uniforms, etc. The employee should schedule a meeting with the finance department to review all payroll related

items and retirement account options. On or before the day upon which the employee receives the final paycheck the human resources department will:

- (a) Explain the termination of health insurance and COBRA benefits;
- (b) Collect the medical benefits identification cards;
- (c) Conduct an exit interview; and
- (d) Collect "Verification of Return of All Equipment and Supplies" Form.

SECTION 8. REINSTATEMENTS

An employee who is dismissed because of reduction in force may be reinstated within one (1) year of the date of the separation, with the approval of the department head and the city manager. An employee who enters extended active duty with the Armed Forces of the United States, the Public Health Service or with Reserve component of the Armed Forces will be granted reinstatement rights commensurate with Chapter 43 of Public Law 93-508. Any employee who is reinstated shall be credited with previous service and previously accrued sick leave and will receive all benefits provided in accordance with this policy and under supplementary rules and regulations. The salary paid a reinstated employee shall be as close as reasonably possible, given the circumstances of each employee's case, to the salary step previously attained by the employee in the salary range for the previous class of work, plus any across the board pay increases.

ARTICLE VIII: DISCIPLINARY ACTIONS

SECTION 1: POLICY

The city administers a progressive disciplinary procedure by which discipline is administered in proportion to the degree of severity and frequency of unacceptable employee behavior. Progressive disciplinary actions are to be administered consistently and equitably without regard to race, color, sex, national origin, age, disability, or religion. All disciplinary actions are subject to the approval of the city manager.

SECTION 2. PURPOSE

Progressive discipline is intended to allow the employee the opportunity to correct deficiencies in work behavior by clarifying and prescribing to the employee the appropriate behavior.

SECTION 3. CAUSATION

Employees may be disciplined for improper personal conduct or unsatisfactory performance of job duties.

SECTION 4. PROCEDURE

When deemed appropriate by the management team, progressive formal discipline is to be administered and recorded in an employee's personnel jacket as follows:

Written Warning

Documented discussion of specific work-related concerns indicating corrective measures to be followed. The receipt of a written warning must be acknowledged in writing by the employee. If the employee refuses to properly acknowledge the receipt of a written warning, the supervisor issuing the written warning shall note the employee's refusal on the employee disciplinary report and have an additional supervisor sign the disciplinary report as a witness to the fact that the employee refused to sign the disciplinary report.

Written Warning with Condition(s) of Continued Employment

If an employee continues to perform his or her duties in an unsatisfactory manner after the receipt of a written warning about deficiencies in the employees' work performance, or if the employee engages in improper personal conduct that involves a mitigating factor or a combination of mitigating factors deemed by the management team to warrant disciplinary action short of dismissal, the employee may be issued a written warning that contains conditions with which the employee must comply in order to maintain his or her employment with the city. These conditions of employment may include, but are not limited to, performance standards that are designed to establish a defined goal for the employee to attain in order to demonstrate that substantive progress has been made toward the employee working and conducting himself or

herself in a manner that meets the expectations of the City of Asheboro. The performance standards established as part of a specific written warning may remain in effect for up to six (6) calendar months after the employee's receipt of the written warning. The receipt of a written warning must be acknowledged in writing by the employee. If the employee refuses to properly acknowledge the receipt of a written warning, the supervisor issuing the written warning shall note the employee's refusal on the employee disciplinary report and have an additional supervisor sign the disciplinary report as a witness to the fact that the employee refused to sign the disciplinary report.

Dismissal from employment or the issuance of a written warning with conditions of continued employment as a consequence of improper personal conduct does not require prior warning, documented or otherwise.

Pre-Dismissal Hearing

The supervisor recommending dismissal shall discuss the preliminary recommendation with the Human resources department. The supervisor shall schedule and conduct a pre-dismissal conference with the employee. In the conference, the supervisor shall give the employee written notice of the recommendation for dismissal, including specific reasons for the proposed dismissal and a summary of the information supporting that recommendation. The employee shall have an opportunity to respond to the proposed dismissal, to refute information supporting the recommended dismissal action and to offer information or arguments to support his/her position. During this pre-dismissal hearing with the division/department head, no outside parties, specifically including without limitation private legal counsel, may participate in this process that is limited to the city's employee and the employee's supervisor(s). In the event the decision is made to proceed with the dismissal from employment, the employee may have legal counsel appear on his or her behalf during the post-dismissal appeal proceedings that are conducted by the human resources director and the city manager.

Suspension

If the behavioral infraction is extremely serious to the city, fellow employees, or the public, supervisors may suspend an employee without warning.

SECTION 5. DISMISSAL/DEMOTION

An employee may be demoted/dismissed for unsatisfactory performance of duties after the employee has received prior written warning (s) on his/her job performance. An employee may be demoted/dismissed for improper personal conduct without prior warnings (s). Before an employee is demoted/dismissed for either reason, the following shall apply:

- 1) A written summary of facts and circumstances leading to the decision will be prepared by the supervisor or a higher level administrator. A copy of the report shall be submitted to the human resources department prior to informing the employee of the decision.

- 2) Documentation of previous disciplinary action taken (such as previous oral and written warnings) and other documents that support the decision shall be attached to the summary.
- 3) Prior to conducting a pre-dismissal hearing, which is also conducted in advance of taking final action on a contemplated demotion, the division director/department head shall forward the above-referenced summary to the human resources director and the city manager for approval to proceed with a pre-dismissal hearing.
- 4) Within two (2) business days of the date of the pre-dismissal hearing, the division director/department head that conducted the hearing shall transmit to the employee written notice of the decision made by the division director/department head. If the decision is to demote or dismiss the employee, the division director/department head shall, at a minimum, include the following information in the notice:
 - (a) Reason(s) for demotion or dismissal;
 - (b) An effective date of the action;
 - (c) A numerical list of the specific findings relied upon by the division director/department head in order to reach a decision; and
 - (d) The employee's right to appeal the decision through the city's administrative review process.
- 5) The dismissal/demotion of probationary employees shall be governed by the Probationary Period of Employment section of this manual. Furthermore, the Rights of Appeal section of this article shall be deemed to be inapplicable to probationary employees.

SECTION 6. RIGHTS OF APPEAL

In the cases of a suspension, demotion, or dismissal that has been entered by a division/department head, a regular employee has appeal rights. If an appeal is made from the decision of the human resources director, such an appeal is to be made to the city manager in accordance with subsection (B) below. In the case of the suspension, demotion, or dismissal of a regular employee holding the rank of department head or higher, the city manager will specify the appeal procedure that will be available to the employee at the same time the city manager designates the employee who will conduct, on behalf of the manager, the administrative investigation of the circumstances leading to the need to evaluate whether a suspension, demotion, or dismissal is warranted. Otherwise, the appeals process will be conducted as follows:

Appeal from a Division Director/Department Head Decision to the Human Resources Director

A regular employee may appeal his or her suspension, demotion, or dismissal to the human resources director. Any such appeal must be in writing, and the written notice of appeal must be received by the human resources director within twenty (20) workdays

following the entry of the personnel action that is under appeal. The human resources director shall review the written reports utilized by the division director/department head to take the personnel action under appeal, and the human resources director may request additional information and documentation prior to the hearing that will be scheduled in order to consider the appeal.

The human resources director shall notify all concerned of a time and date for the post-personnel action appeal hearing that will take place as soon as possible, but not later than twenty-five (25) workdays after the date of the personnel action under review. During the hearing, the human resources director may receive new information, written or oral, from the division director/department head and/or employee so long as the information/documentation is germane to the issue(s) under review. In deciding the issue on appeal, the human resources director may confirm or modify the recommendation of the division director/department head and enter such order as the human resources director may deem appropriate. The human resources director's written decision shall be entered and forwarded to the division director/department head and the employee within thirty (30) workdays of the personnel action from which an appeal has been made.

Either the division director/department head or the employee may appeal the human resources director's decision to the city manager. If an appeal is properly filed, the human resources director will forward his written decision as well as all of the documents that he considered during the appeal process to the city manager for further review.

Appeal from the Human Resources Director's Decision to the City Manager

An appeal from the decision of the human resources director pertaining to a regular employee's suspension, demotion, or dismissal must be submitted in writing to the city manager. Any such written notice of appeal must be received by the city manager within thirty-five (35) workdays of the entry of the personnel action under appeal. The city manager will review all of the documentation considered by the human resources director, and the manager may request additional information and documentation prior to the hearing that will be held to consider the appeal.

The city manager will notify all concerned of a time and date for the appeal hearing that will take place as soon as possible, but not later than forty (40) workdays after the entry of the personnel action under appeal. At the hearing, the city manager may receive new information, written or oral, from the parties to the appeal so long as the information/documentation is germane to the issue(s) under review. In deciding the issue on appeal, the city manager may confirm or modify the decision entered by the human resources director and will enter such order as the manager deems appropriate. The decision entered by the city manager shall be final.

The city manager's written decision will be entered and forwarded to the human resources director, the division director/department head, and the employee within forty-five (45) workdays after the personnel action from which an appeal has been made. Any deviation from the above policy and procedure shall be subject to the approval of the city manager.

SECTION 7. ADMINISTRATIVE GUIDELINES

Unsatisfactory Performance of Duties

This category covers all types of performance-related inadequacies. This policy does not require that the progressive warnings address the same type of unsatisfactory performance, but it does require that all warnings be related to job performance. Unsatisfactory performance of duties may include, but is not limited to:

- 1) Inefficiency or incompetence in performing duties;
- 2) Negligence in performance of duties;
- 3) Physical or mental incapability for performing duties;
- 4) Careless or improper use of city property;
- 5) Failure to maintain satisfactory and harmonious working relationships with fellow employees and the public;
- 6) Habitual pattern of failure to report for duty at the assigned time and place;
- 7) Absence without approved leave;
- 8) Habitual and improper use of sick leave privileges;
- 9) Failure to obtain or maintain current license or certificate required as a condition for performing the job; and
- 10) Failure to wear and use appropriate safety equipment or otherwise to abide by safety rules and policies.

Improper Personal Conduct

An employee who engages in a single act of improper personal conduct is subject to dismissal from employment with the City of Asheboro regardless of whether the employee has previously received a warning of any kind during his or her career with the city. The following list is illustrative, and is not an exhaustive or exclusive list, of the types of improper personal conduct that will lead to the termination of an individual's employment with the city:

- 1) Conduct unbecoming a city employee;
- 2) Conviction of a felony;
- 3) Committed a criminal act;
- 4) Misusing city funds;

- 5) Falsifying information provided to the municipal corporation in order to secure one or more job assignments or position(s);
- 6) Engaging in any action that would in any way seriously disrupt or disturb the normal operations of the municipal corporation;
- 7) Willful acts that would endanger the lives or property of others;
- 8) Willfully damaging city property;
- 9) Possessing unauthorized weapons, alcoholic beverages, or illegal substances while on the job;
- 10) Threats, pressure, or physical actions against others, specifically including without limitation uninvited and repeated contact, whether by means of communication devices or by means of physical visits to the grounds or home of the targeted individual, for the purpose of harassing an individual or forcing unwelcomed dialogue/discussion that is not subject to free speech protections afforded by the Constitutions of the United States and the State of North Carolina;
- 11) Insubordination;
- 12) Accepting gifts for "favors" or "influence;"
- 13) Without proper authorization, disseminating or otherwise releasing in any manner information that is lawfully maintained by the city as confidential information;
- 14) Unauthorized possession of the city's or another employee's property;
- 15) Leaving the work area repeatedly for excessively long periods without proper authorization;
- 16) Violation of the city's policies prohibiting sexual harassment, unlawful discrimination, workplace violence, and/or substance abuse;
- 17) Providing or maintaining false or improper records/documents;
- 18) Sleeping during work time;
- 19) Gambling during work time; and
- 20) Providing an untruthful statement or statements during an administrative investigation conducted by the city and/or otherwise attempting to impede the ability of the city to conduct an accurate and complete administrative investigation.

Written Warning

During the period after written warnings have been issued for unsatisfactory performance of duties, management may choose to counsel with the employee concerning his/her employment status before a decision to demote or dismiss is made. Such counseling should involve a candid discussion about the actions that an employee must take in order to correct the unsatisfactory performance. As a part of this counseling, management may request the employee to take up to one (1) day's leave with pay to consider whether or not the employee wishes to continue his/her employment with the city. It should be stressed to the employee that a decision to continue employment with the city will require a commitment to improve performance, and that a lack of improvement will lead to dismissal. Management is expected to use its discretion to determine when this procedure would benefit the employee and the city.

Suspension

Investigatory or disciplinary suspension may be used by management in appropriate circumstances. The following general guidelines shall be utilized when deciding whether to place an employee on suspension:

- 1) If the infraction or behavior is extremely serious or injurious to the city, fellow employees, or the public, a supervisor may suspend an employee without warning. However, before any further formal disciplinary action such as demotion or dismissal is taken against an employee, the employee's division director/department head must consult with the human resources department.
- 2) An employee who has been suspended for either investigatory or disciplinary reasons may be placed on compulsory leave without pay.
- 3) Investigatory suspension with or without pay may be appropriate:
 - (a) To provide time to investigate, establish facts, and reach a decision concerning an employee's status in those cases where it is determined the employee should not continue to work pending a decision; and
 - (b) When management elects to use investigatory suspension in order to avoid undue disruption of work or to protect the safety of persons or property.
- 4) Investigatory suspension without pay shall not exceed thirty (30) calendar days.
- 5) Investigatory suspension with pay will be at the request of the division director/department head and must be authorized by the city manager.
- 6) An employee who has been suspended with or without pay must be furnished a letter with the specific reasons for his/her suspension and notice of right to appeal. A copy of the letter shall be forwarded to the human resources department in advance.
- 7) Suspension with or without pay must be fully documented.

Review of Documentation

An employee who objects to material in his or her personnel jacket may place in the file a statement relating to the material the employee considers to be inaccurate or misleading. The employee may seek the removal of such material by filing a grievance and following the grievance procedures specified in this manual.

SECTION 8. NAME-CLEARING HEARING

- (A) If an employee is demoted or separated from employment with the city, and the employee contends that, in relation to such a personnel action, false stigmatizing statements about the employee have been or may be made public, then the employee may request a name-clearing hearing under the conditions set forth below. The purpose of the hearing is to afford the employee an opportunity to clear his or her name by responding to the statements. These name-clearing hearing procedures will not serve as an appeal of any disciplinary action or to gain reinstatement to city employment.
- (B) Non-probationary employees who are disciplined or dismissed from their employment with the city will continue to have appeal rights as established elsewhere in this employee policies and procedures manual.
- (C) A name-clearing hearing will be offered whenever the following three conditions are met:
 - (1) An employee is demoted or separated from employment;
 - (2) The employee contends that stigmatizing statements have been placed in his or her personnel file, or otherwise could be made public, and the alleged statements involve the employee's deliberate fraud, or dishonesty, or imply the existence of serious character defects such as dishonesty or immorality; and
 - (3) The employee asserts the statements are untrue.
- (D) A name-clearing hearing is not required every time an employee is demoted or separated from employment. Such a hearing is required only when a statement relating to the demotion or separation from employment stigmatizes the employee's reputation, and the employee asserts that the statement in question is false. A statement is "stigmatizing" if it involves allegations of dishonesty, immorality, or other conduct that may damage the employee's reputation among associates and impair his or her ability to obtain employment. Examples of stigmatizing statements include falsifying records, misappropriating city property or funds, mental instability, statements that the employee is untruthful, untrustworthy, or unethical as well as statements that the employee has committed a crime or other immoral act.
- (E) When an employee is demoted or separated from employment with the city, and the circumstances surrounding the personnel action potentially fall within the scope of this section, departmental managers initiating the personnel action must notify

the employee in writing of the opportunity to request the scheduling of a name-clearing hearing by the human resources director.

- (F) A request for a name-clearing hearing must be filed in writing with the human resources department within three business days from the effective date of the personnel action that gave rise to the request. The request will not stay the demotion or separation from employment. An employee's failure to request a name-clearing hearing in accordance with the timeline stated herein shall be considered a waiver of the employee's rights under this specific policy. When the written request for a name-clearing hearing is submitted to the human resources department, the employee must identify within the written request the following issues:
 - (1) The statements that the employee contends are false and stigmatizing to his or her reputation; and
 - (2) The manner in which the false statements were made public or are likely to be made public.
- (G) City personnel will arrange for the name-clearing hearing to be recorded, and one copy of the recording will be made available at no cost to the employee.
- (H) The requested name-clearing hearing shall be held at a location, date, and time scheduled by the human resources director or his designee. The city manager shall designate, for each hearing, the individual who will serve as the hearing officer. Upon the receipt of the employee's timely request for a name-clearing hearing, the human resources director, or his designee, shall schedule the hearing for a date that falls within thirty calendar days of the date upon which the written request was received by the human resources department. The employee requesting the hearing shall be given notice of the location, date, and time of the scheduled hearing no less than three calendar days in advance of the date set for the name-clearing hearing.
- (I) The employee who requested the name-clearing hearing may invite anyone to the hearing, which is held for the purpose of allowing the employee an opportunity to clear his or her name publicly. The employee will be allowed to present testimony, documents, and/or witnesses to support the employee's allegation(s) that the stigmatizing statements in question are false. The employee may be represented by counsel. However, the name-clearing hearing is not a forum where city employees or members of the audience are cross-examined or asked to provide evidence, unless they want to provide evidence at the request of the employee in an attempt to help the employee present his or her name-clearing hearing case. The hearing will not consist of or result in the formulation of any conclusions or the reevaluation or nullification of any particular employment recommendation or action.
- (J) Once the name-clearing hearing has concluded, an audio recording of the hearing will be placed in the employee's personnel jacket maintained in the human resources department along with the following statement completed and signed by the human resources director:

It is hereby certified that on _____, a name-clearing hearing was held at the request of _____. This file contains a record of the proceedings of the hearing with _____ serving as the hearing officer.

Date: _____

Human Resources Director

ARTICLE IX: GRIEVANCE PROCEDURE

The grievance procedure is designed to facilitate open and meaningful internal communications between employees and the different levels of management about workplace problems or dissatisfactions without fear of reprisal on the part of the city's employees. The other intended benefits of this grievance procedure are to promote a better understanding of employee policies, practices, and procedures; to instill confidence in employees that fair and impartial treatment will be received; and to develop in supervisors a continuing sense of responsibility for maintaining effective working relationships with subordinate employees.

All employees including supervisors and division/department heads, are expected to discuss their problems and misunderstandings with their superiors. Open two-way communication is a proven factor in reducing and resolving grievances. When utilizing this internal forum to better understand and hopefully satisfactorily resolve complaints/dissatisfactions, no outside parties, specifically including without limitation private legal counsel, may participate in this process that is limited to the city's employees and the various levels of the city's management team.

The grievance procedure established in this Article is not the appropriate forum for considering issues concerning an employee's suspension, demotion, or dismissal. An appeal from a suspension, demotion, or dismissal from employment shall be filed and will be heard in accordance with the provisions found in the Rights of Appeal section of this manual. All other types of work-related problems, dissatisfactions, and complaints shall be discussed by all parties in a positive and respectful manner in accordance with the following procedures:

Informal Discussion with Immediate Supervisor

An employee who feels he/she has a grievance shall first discuss the problem with the immediate supervisor. The employee must inform the supervisor about the grievance as soon as possible, but not later than five (5) workdays following the incident or action that caused or revealed the problem. It is supervisory responsibility to encourage the subordinate to discuss the problem with the supervisor so as to promote understanding. Most misunderstandings should be clarified and resolved during this free exchange of viewpoints. If the employee still feels the grievance is not resolved, he/she may proceed to the next step of this procedure.

Conference Meeting with Division Director/Department Head

An employee may request a conference meeting with the division director/department head to discuss an unresolved grievance. Such a request must be received by the division director/department head in writing from the employee no later than ten (10) workdays following the event that caused or revealed the grievance.

The division director/department head shall promptly notify the human resources director, the employee and the employee's immediate supervisor of a date and time for the conference meeting, which will be no later than fifteen (15) workdays after the problem causing event. The division director/department head will open the meeting with an informal discussion of the problem and will explore possible solutions with those in attendance. Every effort will be made during this discussion to resolve the grievance to the satisfaction of all concerned. However, if the grievance cannot be resolved through this discussion, the parties will together prepare a written report of all sides of the issue, including the recommendation of the division director/department head. This report shall be promptly submitted to the human resources director for further consideration through the next step.

Conference Meeting with the Human Resources Director

An employee may request a conference meeting with the human resources director to discuss an unresolved grievance. Such a request, along with the written report that is to be submitted by the parties involved, must be received by the human resources director in writing no later than twenty (20) workdays following the event that caused or revealed the grievance. The human resources director shall review all written reports and may request additional information and documentation prior to the conference meeting.

The human resources director shall notify all concerned of a time and date to hold a conference meeting that will take place as soon as possible, but not later than twenty-five (25) workdays after the problem causing event. At the conference meeting, the human resources director may receive new information, written or oral, from the division director/department head and/or employee, which is germane to the issue. In resolving the grievance, the human resources director may confirm or modify the recommendation of the division director/department head and recommend such order, as he or she may deem appropriate in the matter.

If the grievance cannot be resolved at this particular conference meeting, the human resources director will prepare a written report of all sides of the issue, including the recommendation of the division director/department head and the human resources director's recommendation. This report shall be promptly submitted to the city manager for further consideration through the next step.

Notwithstanding any other provision in this section, in the event the grievance is filed by an employee in the human resources department or by a division director/department head, the grievance will be heard directly by the city manager.

Conference Meeting with the City Manager

An employee may request a conference meeting with the city manager to discuss an unresolved grievance. Such a request, along with the written report submitted by the human resources director, must be received by the city manager in writing from the

employee no later than thirty (30) workdays following the event that caused or revealed the grievance. The city manager shall review all written reports and may request additional information and documentation prior to the conference meeting.

The city manager shall notify all concerned of a time and date to conduct the conference meeting that will take place as soon as possible, but not later than thirty-five (35) workdays after the problem causing event. At the conference meeting, the city manager may receive new information, written or oral, from the division director/department head and/or employee, which is germane to the issue. In resolving the grievance, the city manager may confirm or modify the decision of the human resources director and/or the division director/department head and enter such order as the manager may deem appropriate in the matter. The decision rendered by the city manager shall be final.

The city manager shall furnish written notice to the employee, the division director/department head, and the human resources director of his final decision. This notice shall be made not later than forty (40) workdays from the original date of the event that caused or revealed the problem. Any deviation from the above policy and procedure shall be subject to approval by the city manager.