CITY OF ASHEBORO

PERSONNEL

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 on the 1st day of February 2012.

TABLE OF CONTENTS

ARTICLE I - GENERAL PROVISIONS	**PAGE**	**5**
Administration		5
Human Resources Department		5
Personnel Committee		5
Supplementary Policies		5-6
Employment at Will		6
ARTICLE II - POSITION CLASSIFICATION PLAN	**PAGE**	**7**
Allocation of Positions		7
"Full Time Employees" Defined		7
"Part Time Employees" Defined		7
“Seasonal Recreational Employees” Defined		7
"Regular Employees" Defined		7
Administration		7
Amendment of the Position Classification Plan		8
ARTICLE III - PAY PLAN	**PAGE**	**9**
General		9
Maintenance of Pay Plan		9
Transition to a New Pay Plan		9
Use of Salary Ranges		9
Starting Salaries		9
Pay Rates in Promotion, Demotion or Transfer		10
Overtime		10-11
Call-Back Pay		11
Payroll Deductions		11
ARTICLE IV - RECRUITMENT AND EMPLOYMENT	**PAGE**	**12**
Policy – EEOAA/Sexual Harassment		12
Implementation of Policy		12
Recruiting and Appointing Procedures		12
Qualification Standards and Testing		12
To Fill A Vacancy		13
ARTICLE V - CONDITIONS OF EMPLOYMENT		**14**
Workweek - Generally		14
Workweek - Police, Fire and Shift Personnel		14
Employment of Relatives		14
Probationary Period of Employment		14
Gifts and Favors		14
Outside and Dual Employment		15
Political Activity Restricted		15
Vehicles Owned by City		15
Telephone and Address		15
Pre-Employment Physical Examinations and Drug Screening		15
Policy on Substance Abuse		16-19
Workplace Violence		19

ARTICLE VI - BENEFITS **20**
Purpose 20
Eligibility 20
Group Health and Hospitalization Insurance 20
Group Health and Hospitalization Insurance for Retiring Employees 20
North Carolina Local Governmental Employees' Retirement System 21
Special Separation Allowance for Eligible Sworn Retiring Law Enforcement Officers 21
Group Life Insurance 21
Worker's Compensation 22-22
Years of Service 22
Employee Assistance Program 22-23

ARTICLE VII - LEAVES OF ABSENCE **PAGE** **24**
Holidays 24
Vacation Leave - Basic Accrual 24
Vacation Leave - Accumulation 25
Vacation Leave - Manner of Taking 25
Vacation Leave - Terminal Pay 25
Vacation Leave - Death Payment 25
Sick Leave - Generally 25
Sick Leave - Basic Accrual 25
Sick Leave - Accumulation 26
Sick Leave - Physician's Certificate 26
Sick Leave - Retirement Credit for Accumulated Sick Leave 26
Sick Leave Notification 26
Sick Leave - Advancement 26-27
Sick Leave - Termination 27
Sick Leave - Transfer 27
Family and Medical Leave Act 27-28
Voluntary Shared Leave 28-30
Americans With Disabilities Act 30
Military Leave 30
Civil Leave 30
Unauthorized Leave 30
Inclement Weather 30-31
Leave Without Pay 31

ARTICLE VIII - PROMOTIONS, DEMOTIONS, TRANSFERS **PAGE** **32**
Promotions 32
Transfers 32
Demotions 32

ARTICLE IX - FAIR LABOR STANDARDS **PAGE** **33**
Pay Rate, Workweek, Overtime and Compensatory Time Policies Adopted 33-34

ARTICLE X - SEPARATIONS AND REINSTATEMENTS **PAGE** **35**
Resignation 35
Reduction in Force 35
Disability 35
Retirement - Generally 35
Death 35
Dismissal 35
Separation Procedures 35-36
Reinstatements 36

ARTICLE XI - DISCIPLINARY ACTIONS **PAGE** **37**
Policy 37
Purpose 37
Causation 37
Procedure 37-38
Dismissal/Demotion 38
Rights of Appeal 39
Administrative Guidelines 39-42

ARTICLE XII – GRIEVANCE PROCEDURE **PAGE** **43-44**

ARTICLE I. GENERAL PROVISIONS

Section 1. Administration

The City Manager shall have the final responsibility for the administration of personnel policies and procedures. In addition, each supervisor and manager of the city has an affirmative duty to enforce the personnel 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/department heads with hiring new employees, and advising employees of all policies, benefits and procedures.

Section 3. Personnel Committee

The purpose of the Personnel Committee will be to provide a representative body through which city employees, management and non-management alike, will be able to express their opinions as they relate to policies, benefits, and procedures.

Incumbents holding the following city positions shall serve as standing members of the committee: City Manager, Human Resources Director, Accounting Specialist, and Personnel Specialist. The Human Resources Director shall serve as Chairperson of the committee and will only vote on matters presented to the committee in the case of a tie.

In addition to the standing members of the committee, the Chairperson shall initially appoint ten (10) employees to serve on the committee. Ultimately, these persons shall serve staggered two (2) year terms. The Chairperson shall strive to maintain proportional representation of management and non-management employees on the committee at all times. The two (2) year term of service for each member of the committee shall commence on April 1st of the calendar year when the member is appointed. With the exception of the first five (5) members of the Personnel Committee to be appointed by the Chairperson, a member's term shall not expire until two (2) years later at midnight on March 31st. The first (5) employees appointed by the Chairperson to serve on the committee shall serve a term of one (1) calendar year that commences on April 1, 2002, and expires at midnight on March 31, 2003. The next group of five (5) appointees shall serve a full two (2) year term that commences on April 1, 2002, and expires at midnight on March 31, 2004. Prior to the expiration of terms of the first five (5) employees appointed by the committee, five (5) new members shall be appointed by the Chairperson and confirmed by a majority of the existing committee members whose terms do not expire until midnight on March 31. The same procedure shall be followed every year subsequent to 2003 in order to replace the five (5) members whose term of office expires at midnight on March 31st of a given year. A currently serving member of the committee shall be eligible for reappointment to another term of service. However, other than standing members of the committee, no member shall serve in excess of four (4) consecutive years on the committee. In the case of a member of the committee that is terminating his or her employment with the City or resigning from the committee prior to the expiration of his or her term, the Chairperson, subject to confirmation by a majority of the existing members of the committee, shall appoint an employee to serve the remainder of the unexpired term.

Section 4. Supplementary Policies

Any and all municipal policies that are not contained herein and that impact the uniform personnel 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 Personnel Policies and Procedures Manual shall control. Divisions/Departments may develop additional policies and procedures to meet their unique personnel requirements. Additional policies must be approved by the Human Resources Director and/or City Manager and in

the event such policies conflict with the policies established herein, such additional policies and procedures shall be void.

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.

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. 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 Director of Human Resources shall allocate each class title to the appropriate class code in the position classification plan.

Section 2. "Full Time Employees" Defined

"Full-time employees" are those who are in positions for which an average work week consists of 40 hours or more and continuous employment of 12 months is required by the City. Layoff and authorized leave-without-pay do not interrupt continuous employment for purposes of this section.

Section 3. "Part-Time Employees" Defined

"Part-time employees" are those who are in positions for which an average work week consists of less than 40 hours and the employee receives no benefits. If a part-time employee should occasionally work over 40 hours in a single week they would be paid according to Fair Labor Standard Act (FLSA) requirements.

Section 4. “Seasonal Recreational Employees” Defined.

“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. Seasonal employees are exempt from Fair Labor Standards Act overtime requirements and this policy’s Article V Section 3, Employment of Relatives requirement.

Section 5. "Regular Employees" Defined.

All full-time and part-time employees who have successfully completed their probation periods shall be considered regular employees.

All City positions are subject to budget review and approval each year, and employees must meet established standards of conduct and job performance. Reference to "regular employees" or "regular positions" should not be construed as a right or contract to perpetual funding or employment.

Section 6. 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 Director of Human Resources the need for additional or fewer positions and significant changes in the nature of duties, responsibilities, or working conditions affecting 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 Department shall establish a schedule to audit one third of the class titles in the position classification plan each year.

(d) When the Human Resources Department 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 by the Human Resources Director. Any such revisions shall be subject to the approval of the City Manager.

Section 7. Amendment of the Position Classification Plan

The City Manager may approve amendments recommended by the Director of Human Resources 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.

ARTICLE III. PAY PLAN

Section 1. General

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 and intermediate steps for all classes of positions included in the position classification plan.

Section 2. 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.

Section 3. 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.

Section 4. 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.

Section 5. Starting Salaries

The minimum rate established for the class shall be the normal hiring rate, except in cases where unusual circumstances warrant appointment at a higher rate. On the recommendation of the department head with the approval of the City Manager approval of a rate above the minimum may be made when it is deemed to be in the best interest of the City. Approval will be based on the qualifications of the applicant in excess of the requirements for the class; where there is a shortage of qualified applicants available at the minimum step; and when qualified applicants decline employment at the minimum step.

Section 6. Pay Rates in Promotion, Demotion or Transfer

When employees are promoted, demoted or transferred, the rate of pay in the new position shall be established in accordance with the following:

a) An employee promoted to a higher grade shall be placed at the minimum rate of the new grade (step 1) or the nearest step, without going over, to a 2 step increase on their current grade whichever is higher.

b) The pay of employees transferred or demoted to a position of lower classification shall be adjusted to a step within the level to which they are assigned.

c) When employees are transferred from the position of one class to the position of another class of the same level, they should continue to be paid at the same rate.

Section 7. Overtime

The mission and purposes of city government inherently require that city employees may periodically be required to work overtime. In accordance with the Fair Labor Standards Act, the city divides employees into two groups for overtime pay purposes. Overtime work shall be work performed by an employee which exceeds the number of hours constituting the established work period for the employee's position. Overtime will be distributed as equally as practical among qualified employees in the same job classification, department and shift, without regard to age, sex, race, color, creed, religion, national origin or physical handicap.

Employees may receive compensation for overtime worked in the following manners:

a) Non-exempt employees
At an hourly rate of 1.5 times his/her regular rate for hours worked which exceeds their established work period or compensatory time-off at the rate of 1.5 hours off for each hour worked in excess of their established work period. The use and/or payment of accrued compensatory time-off shall be administered in strict compliance with the Fair Labor Standards Act.

b) Exempt Employees
Exempt employees may be granted compensatory time-off, on an hour-for-hour basis, for work that would be deemed to be overtime work if performed by a non-exempt employee. For the limited purpose of interpreting paragraph b) of Article III, Section 7, this type of work will be referred to throughout the remainder of paragraph b) as “overtime work” even though such work is not treated as overtime work under the Fair Labor Standards Act. Accumulated compensatory time-off for overtime work may be taken by an exempt employee at a time which will, in the opinion of the employee's supervisor, interfere least with the city’s operations. Subject to advance approval by the City Manager, exempt employees performing overtime work because of emergency conditions or who are regularly required to work a greater number of hours than established for the class to which their position is allocated may be paid at his or her regular rate of pay for overtime work rather than accruing compensatory time-off. If an exempt employee is to be paid for the overtime work rather than receiving compensatory time-off, the division or department head who supervises the affected employee shall, prior to submitting the division’s or department’s time sheets for payroll processing, obtain the City Manager’s written approval on said time sheet for paying the employee for a designated amount of overtime work.

Notwithstanding any other provision in this manual, exempt employees who have been allowed to accumulate compensatory time-off, rather than receiving contemporaneous payment for overtime work, will not be paid for any portion of the accumulated compensatory time-off until the exempt employee terminates his or her employment with the city. 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 on the basis of the maximum amount of compensatory time-off that the employee would have been allowed to accumulate if he or she had been a non-exempt employee. The terminal pay cannot include, and exempt employees are expressly prohibited from receiving, any payment that is based on compensatory time-off hours accumulated in excess of the number of hours that could have been accumulated by a non-exempt employee. 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 or included in the employee's terminal pay shall be deemed to be abandoned and forfeited by the employee.

Section 8. Call-Back Pay

Employees, subject to overtime provisions, called out on emergencies after hours will be guaranteed a minimum of 2 hours pay or compensatory time off. If the 2 hour minimum or any part there of exceeds the non-exempt employee's regular work period they will be compensated at 1.5 times for all in excess. The exempt employee will receive the 2 hour minimum and hour for hour for time in excess of their established work period.

Section 9. 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 payroll equipment.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Policy

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 handicap, national origin or political affiliation.

Sexual Harassment

The City of Asheboro prohibits in any form the sexual harassment of city employees or applicants, and requires that all work sites be free of sexual harassment. Sexual harassment is defined as deliberate, unsolicited and unwelcomed verbal and/or physical conduct of a sexual nature or with sexual implications by a supervisor or co-worker which: (1) has or may have direct employment consequences resulting from the acceptance or rejection of such conduct; (2) interferes with an individuals work performance; or (3) creates an intimidating, hostile or offensive working place. It is the responsibility of the employee to report Sexual Harassment to management. The reporting requirement can be met by completing a “City of Asheboro Sexual Harassment Complaint Form”. This form can be obtained from either the employee’s supervisor, department head, or by coming directly to the Human Resources Department.

Section 2. Implementation of Policy

All personnel responsible for recruitment and employment shall continue to review this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable job-related job requirements are being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, non-job related handicap, national origin or political affiliation.

Section 3. Recruiting and Appointing Procedures

At the time of an employment vacancy, members of the Human Resources Department, in consultation with the 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 Opportunity and shall comply with Federal and State Statutes regarding discrimination in employment matters.

Upon inquiry each individual interested in employment shall be informed of all current job openings. Applications shall be kept in an active file for 6 months.

Qualified persons currently employed by the City shall receive first consideration for filling those vacancies that represent promotional opportunities.

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

Section 4. Qualification Standards and Testing

Tests required or administered by the City shall be those measuring the skills actually required for the job, pre-employment physicals, drug testing and a review of the driving record and criminal history record of the applicant.

Section 5. To Fill A Vacancy

1. Upon learning of a future vacancy, the department head should **immediately** notify the Human Resources Department, via telephone or in person, of the pertinent information concerning the vacancy.

2. The Human Resources Department, with guidance from the department head, will complete a Request to Fill Vacancy Form and conduct a file search to review applications on file for potential candidates.

3. The Human Resources Department, with guidance from the department head, will determine whether or not the vacancy should be advertised and proceed accordingly. If advertisement is deemed necessary, timelines for the closing of the announcement will then be established.

4. The Human Resources Department will receive and screen applications.

5. All qualified candidates will be interviewed by the Human Resources Department. The Human Resources Department will check references, pursue a criminal background check, and if appropriate, driving records will be screened.

6. The names of these candidates will then be referred to the department head and/or designee for screening and possible interview.

7. The department head will select a candidate from the individuals suggested or request that the search process for a candidate be continued.

8. The Human Resources Department will either continue the search process or contact the applicant selected and offer employment, contingent upon the results of a pre-employment drug screen and physical.

9. After receiving favorable results of the pre-employment drug screen and physical, the Human Resources Department will follow the verbal offer with a formal letter confirming offer of employment. An effective date of hire will be determined based on the needs of the supervisor/department head. Candidates not hired will receive a letter from the Human Resources Department.

   The Human Resources Department will then:

   (1) Enlist the new employee in the insurance programs;

   (2) Explain the benefits package;

   (3) Provide an orientation concerning employment with the City of Asheboro, including explanation of safety policies and procedures; and completion of all necessary payroll documents;

   (4) 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 their workplace.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Workweek - Generally

The standard or basic workweek of employees of the city shall be 40 hours per week.

Section 2. Workweek - Police and Fire Shift Personnel

The basic workweek for police, fire and shift personnel will be without reference to the number of hours per day or days of the week but shall be the number of hours established by the council as scheduled by the City Manager and in accordance with the Fair Labor Standards Act.

Section 3. 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 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.

Seasonal Recreational and Part-Time employees in the Recreation Services Department and/or Cultural Services Department are exempted from the prohibition specified in this Section.

Section 4. Probationary Period of Employment

New employees, promoted employees, or any employee transferred to another position shall serve a probationary period of 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 must be given notice of dismissal in writing.

Promoted or transferred employees may be reassigned at any time during the probationary period to comparable positions if the department head feels they are not satisfactorily progressing on the new assignment. Such reassignments are not subject to appeal.

No vacation or sick leave may be taken by a new probationary employee nor will a new probationary employee be paid for any accrued vacation or sick leave if employment is terminated during the probationary period. If a probationary employee is injured on the job they may use any accrued time during the seven (7) day waiting period imposed by Worker's Compensation.

New probationary full-time employees are eligible for general salary increases as authorized by the city council. Upon the successful completion of the probationary status, a 2 step salary increase will be granted when they become regular employees.

Section 5. 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 6. 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.

Full-time employees of the city may also hold a part-time position with the city in a different department, if approved by both of the department heads involved. Full-time employees should only hold a part-time position with the city, if the duties of the part-time position do not conflict with the work schedule of the full-time position. Part-time employees of the city may hold another part-time position with the city with the approval of the City Manager.

Section 7. 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 8. Vehicles Owned by City

Any applicant, or employee, who will operate a city owned vehicle must possess a valid driver's license issued by the state. 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 9. Telephone and Address

All city personnel must have telephone numbers and current 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 10. Pre-Employment Physical Examinations and Drug Screening

After a candidate for employment has been offered the position applied for, he/she shall consent to a physical examination and drug screening and whereupon the results of this testing is contingent upon employment. If the job candidate tests positive for drugs and/or is found to have a physical or other limitation that would prohibit him/her from performing the job applied for, he/she will automatically be disqualified for employment. Candidates who refuse to have the physical exam or drug screening performed are automatically disqualified for appointment to the position for which they are applying at the time.

Section 11. Policy on Substance Abuse

The following rules represent the City of Asheboro's policy concerning substance abuse. They will be enforced uniformly with respect to all employees.

The purposes of the policy are:

(1) to establish and maintain a safe, healthy working environment for all employees;
(2) to comply with State and Federal Department of Transportation regulations in regards to holders of Commercial Drivers License (CDL);
(3) to provide a Drug-Free workplace for the City of Asheboro;
(4) to ensure the reputation of The City of Asheboro and its employees within the community;
(5) to reduce accidental injuries, absenteeism, tardiness and other work-related problems; and
(6) to provide the opportunity for rehabilitation assistance to employees who seek such help.

The City of Asheboro expressly prohibits the possession, sale, use, distribution, dispensation, manufacture, purchase or storage of illegal drugs or related paraphernalia and/or alcohol by city employees while at the workplace, (**exception**, law enforcement officers, while in the performance of their duties). Such an act is grounds for immediate termination.

Employees with substance abuse problems are encouraged to seek help from counselors, from other types of medical professionals, or 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 being identified as a substance abuser by means identified in this policy.

The City of Asheboro regrets any inconvenience or problems the policy may cause but believes that the overall benefit to the city and the employees makes it necessary and helpful.

Definitions

A. Alcohol Test - 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 United States Department of Transportation.

B. Drug Test - A test for the presence of the following drugs and/or drug metabolite(s) in the urine or blood of an employee:
   a. Amphetamines (including Methamphetamine)
   b. Cannabinoids (Marijuana)
   c. Cocaine (including Crack)
   d. Opiates
   e. Phencyclidine (PCP)
   f. Other drugs may also be included as directed by Federal law or expanded City policy.

C. Negative Drug Test - A drug test which does not show the presence of drugs and/or drug metabolite(s) at a level specified to be a positive test.

D. Positive Drug Test - A drug test which 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 (GCMS) process.

E. Negative Alcohol Test - An alcohol test which indicates a breath alcohol concentration of less than 0.02.

F. Positive Alcohol Test - An alcohol test which indicates a breath alcohol concentration of 0.04 or greater.

G. Refusal To Submit - Occurs when an employee:
   a. 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.
   b. 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.

c. engages in conduct that clearly indicates that he/she is failing to follow through with the testing process or conduct that interferes with the ability to obtain an adequate specimen.

H. Employees required to have Commercial Driver's License(CDL)
   a. Drivers of commercial motor vehicles with a gross vehicle gross vehicle weight rating (GVWR) 26,001 pounds or more.
   b. 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.
   c. Drivers of motor vehicles designed to transport 16 or more passengers, including the driver.
   d. Drivers of motor vehicles of any size transporting hazardous materials in amounts that require placarding.

NOTE: Fire Department personnel who operate emergency equipment are exempt from the CDL requirement.

I. Safety-Sensitive Function - The following list of activities constitutes safety-sensitive functions as defined by USDOT. Other job requirements may also be considered safety sensitive.
   a. Driving a commercial motor vehicle
   b. Inspecting, servicing, or conditioning any commercial motor vehicle.
   c. All time at a city facility or other public property waiting to operate a commercial motor vehicle.
   d. Performing all other functions in or upon any commercial vehicle except resting in a sleeper birth.
   e. Loading or unloading a vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle.
   f. All time spent performing the driver requirements associated with an accident.
   g. Repairing, obtaining assistance, or remaining in attendance of a disabled commercial Motor vehicle.

Policy

1. **Employees who must be tested for Drugs and/or Alcohol**
   This policy covers all full time, part time, temporary, holders of Commercial Drivers' License(CDL), and prospective employees of The City of Asheboro.

2. **Types of Drug and Alcohol Tests Required**
   A. Pre-Employment Testing - Drug testing must be conducted prior to employment. This testing must be conducted on external applicants as well as **current employees transferring into jobs that require Commercial Driver's License (CDL)**. The tests results must indicate a negative drug test in order to be considered for employment and/or transfer.
   B. Post Accident Testing - A drug test will be conducted on all employees who have an on the job accident that requires medical treatment other than first aid, or results in lost work. This test is to be conducted at the time of the employee's first visit to the city physician or substitute medical provider and/or by the next work day which ever is less.

   In addition, for holders of commercial driver's license (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:**
   a. The accident involved a fatality; or,
   b. The driver received a citation under state or local law for a moving traffic violation arising from the accident.

   Testing for drugs and alcohol for CDL holders should occur within two hours of the accident. If the employee is unable to be tested within two hours, reasons for the delay must be documented. If an alcohol test required by this section is not administered within eight

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 section is not administered within thirty-two hours of the accident, attempts to conduct the drug test shall cease and the reason for the inability to conduct the test shall be documented.

C. **Random Testing - Must be conducted on a random, unannounced basis throughout the year on all holders of commercial driver's license (CDL).Random testing for drugs and alcohol for all holders of Commercial Driver's License (CDL) shall be at a rate mandated by Department of Transportation regulations . During the first year of the program Regulations state that a minimum of 25 percent of the CDL holders must be tested for alcohol and 50 percent for drugs.**

D. For Cause Testing 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 his/her return to work. The employee shall notify his/her supervisor prior to returning to work after said arrest and/or suspension has occurred. Failure to report to his/her department head may result in termination. For Cause Testing may also be required for irrational or unusual behavior, gross negligence, or disregard for safety which results in the damage of property or the lack of well being or injury of any employee or citizen.

E. Return-To-Duty-Testing - Must be conducted on an employee seeking reinstatement who has had a positive Alcohol Test and/or Drug Test as defined in this policy. An employee who has had a positive alcohol or drug test will not be allowed to return to duty until he or she has been evaluated by a Substance Abuse Professional (SAP) and until he or she tests negative on a return to duty test.

F. Follow-up Testing - Must be conducted on an employee once he or she is allowed to return to duty following a positive alcohol and/or drug test. The employee will be subject to a minimum of six follow-up drug and/or alcohol tests within the first twelve months following his/her return to duty. Follow-up testing may be extended for up to sixty months.

Follow-up alcohol testing shall be conducted while the employee is performing safety-sensitive functions, immediately before the employee performs safety-sensitive functions, or immediately after the employee has performed safety-sensitive functions. Follow-up drug testing shall be conducted at any time while the employee is at work.

3. **Prohibited Conduct and Consequences**

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. An employee who produces a confirmed positive test result will be removed from duty without pay. The employee must immediately schedule an evaluation with a Substance Abuse Professional (SAP) and must cooperate with any and all recommendations suggested by the SAP for treatment and/or follow-up. Refusal to cooperate will result in termination. The employee must have a negative test result before he or she will be allowed to return to duty.

B. No employee shall be on duty while in the possession of alcohol and/or illegal drug(s) (**exception**, law enforcement officers, while in the performance of their duties). Such acts will result in termination.

C. No employee required to take a post-accident alcohol test as defined in this policy shall use alcohol for eight hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever comes first. Refusal to cooperate will result in termination.

D. No employee shall refuse to submit to an alcohol and/or drug test. Failure to submit will result in termination.

E. No employee shall report for duty or remain on duty when the employee uses any controlled substance, except when the use is pursuant to the instructions of a physician who has

advised the employee that the substance does not adversely affect the employee's ability to safely perform their assigned work.

F. A second occurrence of a positive drug and/or alcohol test will result in termination.

G. An employee who has a confirmed Breath Alcohol Test result of 0.02 - 0.039 shall not be allowed to continue to perform safety-sensitive functions. The employee will be removed from duty without pay for this 24-hour period and will receive a notation in his /her personnel file about the importance of reporting to work without the presence of alcohol in his/her system. The employee will be subject to a return-to-duty alcohol test prior to returning to a safety sensitive position.

H. No applicant will be offered employment if a confirmed positive drug test result is produced.

Additional Requirements

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 commercial driver's license (CDL) requirement in the State of North Carolina be tested for alcohol and controlled substances.

Department of Health and Human Services (DHHS) mandatory guidelines for controlled substances testing shall be conducted by a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) .

Federally mandated alcohol testing must be conducted by a Breath Alcohol Technician (BAT) trained to proficiency as demonstrated by successful completion of a course of instruction. Alcohol testing shall be conducted using an Evidential Breath Testing (EBT) device.

As required by 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 department head of the conviction within five (5) days after the conviction. Failure to notify the department head will result in termination.

All drug test results are reviewed and interpreted by a Medical Review Officer, or MRO. The MRO is a licensed physician with specific training in substance abuse. If the laboratory reports a positive test result to the MRO, the MRO or designee will contact the employee, typically by telephone, and discuss the results with him/her. The MRO attempts to determine if there is a verifiable medical explanation for the employee to have the drug in his/her system. If there is none, the test result is reported as positive. If there is a verifiable medical explanation for the use of the drug, the result is reported as negative.

An employee who does not pass the drug and/or alcohol test and is terminated or an applicant who does not pass the pre-employment drug test will not be considered for re-employment for a two-year period following the date of the test and then will be considered only when he/she provides documentation suitable to management that he/she has successfully completed an alcohol and/or drug rehabilitation program and passes a pre-employment drug and/or alcohol test.

Any employee has the right of grievance, per the Personnel Policies, for corrective action taken under this policy, to determine whether the Supervisor acted fairly and prudently in light of this policy. If, however employment is terminated due to failure to comply with a rehabilitation agreement and/or refusal to test, the employee is not eligible to use the City of Asheboro grievance procedure.

Section 12. 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 by Article XI of this manual, shall be deemed to constitute improper personal conduct. Employees found in violation of this policy shall be subject to discipline as provided in Article XI of this manual. In addition to any disciplinary action(s) taken pursuant to the city's personnel policies and procedures, employees violating this policy may be subject to criminal prosecution.

ARTICLE VI. BENEFITS

Section 1. Purpose

The city recognizes the need to provide certain fringe benefits to city employees in order to recruit and maintain qualified personnel 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

All full-time employees and elected officials will be provided group hospitalization and life 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.

Other insurance programs which will serve the needs of the employees of the city may be offered through payroll deductions.

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 coverage for the Retiree only until the retiree reaches age 65. If at anytime 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 anytime 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 Personnel 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 as a condition of employment, effective on the date of employment. While no waiting period is established for joining the Local Governmental Employees' Retirement System, 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 Article V, Section 4 of 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 statutory provisions found in N.C. Gen. Stat. § 143-166.41(a),(b).

Payment to a retired officer under the provisions of this section shall cease at the first of:

1. The death of the officer;
2. The last day of the month in which the officer attains 62 years of age; or
3. The first day of reemployment by a local government employer in any capacity; provided, however, that a local government employer may employ retired officers in a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System, and doing so shall not cause payment to cease to those officers under the provisions of this section.

If a retired officer's receipt of the special separation allowance is terminated because of the individual's reemployment with a local government employer in a position or capacity that triggers a cessation of payments under the provisions of the immediately preceding subsection, 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. Employee may elect to insure other members of their family under this plan at their expense.

Section 8. Worker's Compensation

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:

(1) 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.

(2) 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.

(3) Timesheets must reflect Workers' Compensation leave on the days in which leave is taken.

(4) 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.

(5)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.

(6) 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 personnel policies.

In compliance with Section 160A-164.1 of the North Carolina General Statutes, the provisions of Article VI. Benefits, Section 8. Workers' Compensation of the City of Asheboro Personnel Policies and Procedures Manual 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 9. Years of Service

Each regular full-time employee shall earn a 1 step increase in salary upon completing 5 years of service, 10 years of service, 15 years of service, 20 years and 25 years of service with the City of Asheboro. These increases shall be effective upon each employee's anniversary date during the year in which the qualifying event occurs.

Section 10. Employee Assistance Program

The city has an Employee Assistance Program (EAP) to help employees resolve a wide range of personal problems that have a negative effect on their job performance. 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 Program does not pre-empt the utilization of any other provision of the City of Asheboro Personnel Policies and Procedures 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 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 Employee Assistance Program shall be deemed to be supplemental to the city's Policy on Substance Abuse that is found in this manual as a condition of employment in Article V, Section 11. If a conflict arises between the provisions found in the description of the Employee Assistance Program and the adopted Policy on Substance Abuse, the provisions found in Article V, Section 11 of this manual shall be the controlling authority.

ARTICLE VII. LEAVES OF ABSENCE

Section 1. Holidays

The City Manager is authorized to grant the following holidays with pay to 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

Regular holidays or unscheduled workdays which occur during a vacation, sick or other leave period of any officer or employee of the city shall not be considered as vacation, sick or other leave.

Employees required to work on regular scheduled holidays may be granted compensatory time off.

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.

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

Section 3. Vacation Leave – 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.

Section 4. Vacation Leave - 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.

Section 5. Vacation Leave - Terminal Pay

Unused vacation leave time, up to an absolute maximum of 240 hours, shall be paid as terminal pay.

Section 6. Vacation Leave - Death Payment

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

Section 7. Sick Leave - Generally

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 to 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 granted to an employee for death of a member of an employee's family (not to exceed 24 hours off for any one occurrence except by special permission from department head). For the purpose of this section family shall be deemed to include spouse, parents, children, brother, sister, grandparents and grandchildren. Also included are step, half and in-law relationships.

Section 8. Sick Leave - Basic Accrual

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

Section 9. Sick Leave - Accumulation

Employees may accumulate unlimited sick leave. When an employee accumulates 1440 hours of sick leave they may elect to substitute all in excess of 1440 hours for vacation leave on an hour for hour basis, or they may elect to allow it to build toward retirement credit. (See section 11).

Section 10. Sick Leave - Physician's Certificate

If an employee is out more than 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.

Section 11. 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.

Section 12. Sick Leave - 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 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.

Section 13. Sick Leave - Advancement

The City Council may, on the recommendation of the City Manager, advance sick leave to an employee with five or more years 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 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.

Section 14. Sick Leave - Termination

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 Human Resources 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.

Section 15. Sick Leave – Transfer

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 sick leave balance that was accrued as part of his/her previous employment, 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 employees' responsibility for obtaining certification of the amount of previously accrued sick leave is not discharged until the employee receives, from the Human Resources Department, a written acknowledgement of the receipt of satisfactory certification of the amount of accrued sick leave;
(3) Upon completion of a six (6) month probationary period, the employee will be credited with his/her certified prior Sick Leave balance, up to a maximum of forty-eight (48) hours.
(4) Upon completion of one (1) year of continuous service with the City, the employee will be credited with the remainder of his/her certified prior Sick Leave balance, up to a maximum of forty-eight (48) additional hours.
(5) Employees rehired by the City of Asheboro will be credited with their prior Sick Leave balance using the same guidelines as specified above. 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 16. Family and Medical Leave Act

The Family and Medical Leave Act (FMLA) requires employers to grant eligible employees a total of 12 workweeks, or up to 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.

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. Article VI, Section 8 in this manual prescribes the manner in which FMLA leave interacts with workers' compensation leave.

The City of Asheboro will maintain any employer-paid health benefits while the employee is on FMLA leave.

The FMLA leave year shall be a rolling twelve (12) – month period measured forward from the date the employee first takes FMLA leave after completion of any previous FMLA year.

Permanent employees approved for leave of absence retain their permanent status upon return from the authorized leave.

Benefits under the Family and Medical Leave Act are available to eligible employees requesting Family Medical Leave. When the need for FMLA Leave arises, the employee should complete an FMLA Form (available in Human Resources) in a timely manner. Whether or not the employee elects to use paid or unpaid leave, the time counted toward the FMLA Leave Year will begin on the date designated by the employee or the date designated by the Human Resources Department after consultation with the employee. When the need to use FMLA leave is foreseeable, the employee should provide the Human Resources Department with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave.

The City of Asheboro is committed to fully implementing the FMLA. All questions of interpretation that arise with regard to the provisions found in the City of Asheboro Personnel Policies and Procedures Manual shall be resolved in a manner that is consistent with this goal of full implementation. If a conflict is discovered between a provision in the City of Asheboro Personnel Policies and Procedures Manual and the FMLA, the offending provision shall be deemed to be void and severed from the remaining provisions of the manual that are compliant with the FMLA.

Section 17. Voluntary Shared Leave

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

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

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

- Have a prolonged medical condition; or have an immediate family member (spouse, child or parent) whose medical care will require the employee's absence for a prolonged 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;
-Be approved by the City Manager to participate in the program.

Application: An employee who, due to a serious medical condition of self or of his/her immediate family, faces prolonged or frequent absences 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. The application must include a doctor's statement.

Donation: 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" and submit it to the Human Resources Director.
Restrictions on Donation of Leave:

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. A donating employee may not donate more vacation leave than he/she could earn in one year. Additionally, the amount donated must not reduce the donor's vacation leave balance below one-half of what that person can earn in the year.
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.

Use of Donated Leave:

1. All donated leave must be used in 4-hour increments.
2. 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: At the expiration of the period approved for voluntary shared leave as determined by the City Manager, the recipient's sick leave account balance shall not exceed a total of 40 hours. Donated leave time in excess of the time allowed by this policy shall be returned to the appropriate donor(s) vacation leave account(s). In calculating the return of donated leave, priority shall be given to the most recent donor(s) in reverse chronological order.

If a recipient separates due to resignation, death, or retirement from local government, participation in the program ends. Unused leave shall be returned to the appropriate donor(s) vacation leave account(s) with priority being given to the most recent donor(s) in reverse chronological order.

Required Process:

1. Requests to participate in the Voluntary Shared Leave Program shall be submitted to the Human Resources Director. Each request must then be approved the City Manager.
2. The Human Resources Director shall give written acknowledgement to both recipient and the donor(s) of his/her request to participate in the program.

3. A doctor's statement regarding the medical condition of the recipient, or family member of the recipient, must be submitted to the Human Resources Director before action can be taken on a request for shared leave.

Limitation on Leave Amounts: 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 Director.

Section 18. Americans With Disabilities Act

The City of Asheboro prohibits any form of discrimination against persons with physical or mental disabilities, and is committed to full compliance with the Americans with Disabilities Act.

Section 19. 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 the applicable laws and regulations, specifically including without limitation, the Internal Revenue Service regulations.

Section 20. 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 21. 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.

Section 22. Inclement Weather

Because of their essential and direct impact on public safety and health, many city services must continue regardless of the weather. Employees who are required to work when city offices are closed because of inclement weather will be given compensatory time off at the rate of one hour for each hour worked. A maximum of eight (8) hours in a twenty-four (24) hour period may be given. Notwithstanding any other provision found in this paragraph, this section shall not be interpreted in a manner that creates a conflict with the applicable federal and state Wage and Hour Laws.

Employees are encouraged to use their own judgment about reporting to work during inclement weather. Those who are not able to report when city offices are not officially closed will be charged with accrued compensatory time, holiday time, or vacation leave.

Section 23. Leave Without Pay

If an employee is ineligible to request leave on the basis of any other provision in the City of Asheboro Personnel 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 for up to one year by the City Manager. The decision as to whether to grant the requested leave shall be at the sole discretion of the City Manager.

An employee ceases to earn leave credits, including holiday leave, on the date the authorized leave period begins. The employee will continue to be provided with group hospitalization and life insurance, at no cost, for a period not to exceed 6 months. After this 6-month period expires, group insurance shall be made available to the employee and his or her dependents on a participating basis for the duration of the authorized leave period.

ARTICLE VIII. PROMOTIONS, DEMOTIONS, TRANSFERS

Section. 1. 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.

Section 2. 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.

Section 3. Demotions

Any employee whose work performance is unsatisfactory or as a suitable penalty for misconduct may be demoted by the department head, with the approval of the Human Resources Department and the City Manager, provided the employee shows promise of becoming a satisfactory employee in another position.

Any employee transferred or demoted for cause may appeal the disciplinary action in accordance with the grievance procedure outlined in ARTICLE XII.

ARTICLE IX. FAIR LABOR STANDARDS

Section 1. Pay Rate, Workweek, Overtime and Compensatory Time Policies Adopted.

To implement the Fair Labor Standards Act, the following policies are adopted as required under the law.

(a) Employee classification. "Exempt" and "nonexempt" status are determined for all employees based on the guideline of the law.

(b) Rate of pay. The regular rate may be more than the statutory minimum wage but it cannot be less (except for employment under sub-minimum wage certificate pursuant to Section 14 of Fair Labor Standards Act (FLSA).

(c) Workweek. The city establishes its workweek beginning on Sunday at 12:01 a.m. and ending on Saturday at 12:00 midnight. To determine hours worked for pay and overtime purposes, work is recorded to the closest quarter hour. The official work period for FLSA purposes is forty (40) hours over a period of one hundred sixty-eight (168) hours, seven (7) consecutive twenty-four-hour periods.

(d) Section 7k exemption. The city establishes the Section 7k exemption for the following departments:

(1) Police department: The official work period for law enforcement employees is one hundred seventy-one (171) hours over a period of twenty-eight (28) consecutive days.
The work period begins Monday at 6:30 a.m. and ends Monday at 6:20 a.m., twenty-eight (28) days later. Clerical staff are on a forty-hour workweek which begins at 12:01 a.m. Sunday and ends at 12:00 midnight Saturday.

(2) Fire department: The official work period for fire protection employees is two hundred four (204) hours over a period of twenty-seven (27) consecutive days. The work period begins on the first day of the designated twenty-seven-day period at 7:45 a.m. and ends at 8:00 a.m. twenty-seven days later. Clerical staff and dispatchers are on a forty-hour workweek which begins at 12:01 a.m. Sunday and ends at 12:00 midnight Saturday.

(e) Overtime. Overtime work shall be that work performed by a nonexempt employee which exceeds the number of hours constituting the established workweek for that employee's position. Supervisors shall arrange the work schedules of their departments so as to accomplish the required work within the standard work period. Employees should be required to work overtime only in cases of emergencies. If overtime work occurs, the nonexempt employee will receive compensatory time-off, in lieu of overtime pay, at a rate of one and one-half hours for each hour of overtime worked. Compensatory time-off shall be granted by the department head within a reasonable period after it is requested if the use of the compensatory time does not unduly disrupt the operations of the department. Accumulated compensatory time will be paid upon termination of employment and shall be calculated at the average regular rate of pay for the final three (3) years of employment, or the final regular rate received by the employee, whichever is higher. The maximum number of hours that can be accumulated for regular forty-hour employees is two hundred forty (240) (not more than one hundred sixty (160) hours of actual overtime hours worked.) Eligible employees who qualify for the Section 7k exemption in the police department and the fire department can accumulate up to four hundred eighty (480) hours (not more than three hundred twenty (320) hours of actual overtime hours worked). If any nonexempt employee has already accrued the 240 hour maximum for regular 40-hour employees or the 480 hour maximum for employees affected by the Section 7k exemption, such employee shall receive compensation for overtime worked at an hourly rate of 1.5 times his/her regular rate for overtime hours worked. The overtime compensation described in the preceding sentence shall be paid automatically when the excess hours are accrued, so long as the employee maintains the maximum number of compensatory hours that can be accumulated by regular 40 hour employees and employees subject to the 7k exemption. Regardless of the number of compensatory hours accrued by an employee, the department head, in consultation with the City Manager, may approve the payment of overtime worked at the rate of one and one-half (1 ½) hours for each hour of overtime worked in extreme emergencies or in an

unusual work situation. In order to receive a discretionary payment for overtime work as described in the immediately preceding sentence, the department head for whom the affected employee works shall, prior to submission of the department's time sheets to the accounting specialist, indicate on said employee's time sheet whether the employee is classified as an exempt or non-exempt employee.

Accrued time (i.e. vacation, holiday, sick leave or compensatory time) used by an employee will be counted as hours worked during a work period for the purpose of computing FLSA overtime hours.

ARTICLE X. SEPARATIONS AND REINSTATEMENTS

Section 1. Resignation

Employees are required to complete a Resignation Form two weeks prior to the effective date of the resignation. Failure to provide sufficient notice will be made part of the employment record, does not reflect positively, and may harm future reemployment possibilities. Once a resignation is accepted by the Human Resources Department, it may not be withdrawn by the employee. The department head may waive the requirement to work the two week notice after notice is received.

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 - Generally

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 Article XI - Disciplinary Action.

Section 7. Separation Procedures

When an employee is to separate from service with the City for any reason the following procedures will be used to process the separation:

The resigning employee must immediately complete a Resignation Form. Once the department head has signed and approved the Resignation Form, it should be forwarded to the Human Resources Department for approval.

The Human Resources Department will then forward a letter to the resigning employee which explains the separation procedures and the procedure for collection of the final paycheck. The letter will also explain that prior to

employee's departure, 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. An interview will also be set up with the employee 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 XI. 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:

(1) Written Warning(s)

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.

(2) 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.

(3) Pre-Dismissal Hearing

The supervisor recommending dismissal shall discuss the 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.

(4) 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 (oral and written warning (s) and other documents that support the decision shall be attached to the summary.

3) The summary shall be reviewed by the division/department head, the Human Resources Department and City Manager for approval, prior to the demotion/dismissal.

4) After the division/department head has held a pre-dismissal hearing with the employee and it is determined that the employee will be demoted/dismissed, he shall present the employee with the letter the next working day after the hearing. This letter must include the specific:

   a) Reason (s) for demotion or dismissal;
   b) An effective date of the action;
   c) A numerical list of the specific acts; and
   d) And the employee's right to appeal.

5) Upon dismissal on the basis of unsatisfactory job performance, an employee may be given up to two (2) week's notice.

6) Upon dismissal on the basis of personal conduct, an employee may be dismissed without notice. Management should consult with the Human Resources Department and receive prior approval from the City Manager.

The dismissal/demotion of probationary employees shall be governed by Article V, Section 4 of the City of Asheboro Personnel Policies and Procedures Manual. Furthermore, Section 6 of this Article shall be deemed to be inapplicable to probationary employees.

Section 6. Rights of appeal

In the cases of suspension, demotion or dismissal, a regular employee has appeal rights. The appeal procedure shall be as provided in Article XII, Section 1(C).

Section 7. Administrative Guidelines

A. 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) Inefficient 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;

(10) Failure to wear and use appropriate safety equipment or otherwise to abide by safety rules and policies.

B. Improper Personal Conduct

If the infraction or behavior is extremely serious or injurious to the city, fellow employees, or the public, supervisors 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/department head must consult with the Human Resources Department. Improper personal conduct may include, but is not limited to:

(1) Conduct unbecoming a city employee;

(2) Conviction of a felony;

(3) Committed a criminal act;

(4) Misusing city funds;

(5) Falsifying job information to secure position;

(6) Engaging in any action that would in any way seriously disrupt or disturb the normal operation of the city;

(7) Trespassing on the grounds or home of any official or employee for the purpose of harassing or forcing dialogue or discussion for the occupants;

(8) Willful acts that would endanger the lives or property of others;

(9) Willfully damaging city property;

(10) Possessing unauthorized weapons, alcohol, or illegal substances while on the job;

(11) Threats, pressure or physical actions against others;

(12) Insubordination;

(13) Reporting to work under the influence of alcohol or drugs, or partaking of such items on the job.

(14) Accepting gifts for "favors" or "influence";

(15) Betraying confidential information;

(16) Unauthorized possession of city's or another employee's property;

(17) Leaving the work area repeatedly for excessively long periods without proper authorization;

(18) Sexual harassment;

(19) Providing or maintaining improper records;

(20) Sleeping during worktime;

(21) Gambling during worktime.

C. Written Warning (s)

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.

D. Suspension (s)

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) An employee who has been suspended for either investigatory or disciplinary reasons may be placed on compulsory leave without pay.

(2) 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.

(3) Investigatory suspension without pay shall not exceed thirty (30) calendar days. Investigatory suspension with pay will be at the request of the division/department head and authorized only by the City Manager, and shall not exceed thirty (30) calendar days.

(4) 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.

(5) Suspension with or without pay must be fully documented.

E. Review of Documentation

In accordance with Section 160A-168(d) of the North Carolina General Statutes, an employee is hereby expressly authorized to submit for inclusion in his or her personnel jacket a statement relating to material in his or her file that the employee objects to on the basis of the employee's contention the material is inaccurate or misleading. Additionally, management shall periodically review any documented disciplinary actions which have been placed in an employee's personnel jacket. Where disciplinary actions noted in the employee's personnel jacket are deemed by the division/department head to have served their purpose and to be no longer necessary, the division/department head shall submit documentation to support this conclusion. Any such documentation shall be subject to review and approval by the Human Resources Director and the City Manager prior to inclusion in the employee's personnel jacket.

Probationary employees who have been subject to disciplinary action for improper personal conduct, and are ineligible for access to the city's Grievance Procedure, may submit to the Human Resources Director a written request for an informal name-clearing proceeding that will be conducted by the Human Resources Director. The Human Resources Director must receive such a written request within 30 business days of the date of receipt by the probationary employee of notification that the problem causing documentation had been placed in the employee's personnel jacket. In his or her request, the probationary employee must state the basis for his or her belief that the submitted documentation should be amended.

During the informal hearing of this matter, the Human Resources Director shall review all pertinent written reports and may request additional information and documentation. Also, the Human Resources Director may receive new evidence, written or oral, from the division/department head and/or employee, which is germane to the issue. In deciding the question presented by the probationary employee, the Human Resources Director may confirm or note the need to modify the documentation previously placed in the employee's personnel jacket.

If an individual is dissatisfied with the decision rendered by the Human Resources Director, the individual may appeal the Human Resources Director's decision by submitting a written request to the City Manager for an informal hearing before the City Manager. Such a request

must be received by the City Manager within 15 business days of the date on which the individual received the Human Resource Director's written decision.

The City Manager shall review the entirety of the information previously reviewed by the Human Resources Director during his or her consideration of the matter. Additionally, the City Manager may receive new evidence, written or oral, from the division/department head and/or employee that is germane to the issue. When ruling on the appeal the City Manager may confirm or modify the decision of the Human Resources Director. The decision rendered by the City Manager shall be final. The City Manager shall furnish written notice to the employee, the division/department head, and the Human Resources Director of his final ruling.

This name-clearing opportunity is for the limited and sole purpose of affording an employee who has no other grievance or appeal rights an opportunity to request the mitigation of potentially damaging information from a personnel jacket. The name-clearing process shall not afford probationary employees access to the city's grievance procedure. During the name clearing process, the dismissed probationary employee does not have the right to appeal his or her dismissal from employment and is expressly prohibited from raising such an appeal.

ARTICLE XII. GRIEVANCE PROCEDURE

The grievance procedure is designed to insure an employee of fair, impartial and prompt consideration of a problem or dissatisfaction without fear of reprisal. The procedure also encourages employees at all levels to express themselves regarding conditions of work. The grievance procedure is intended to promote better understanding of policies, practices and procedures; to instill confidence in employees that fair and impartial treatment will be received; and 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 an employee feels the need to resolve a work-related problem, dissatisfaction or complaint, the following procedure should be followed:

A. 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.

B. Appeal to Division/Department Head

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

The division/department head shall promptly notify the Human Resources Director, the employee and the employee's immediate supervisor of a date and time for the hearing, which will be no later than fifteen (15) workdays after the problem causing event. The division/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/department head. This report shall be promptly submitted to the Human Resources Director for further consideration through the next step.

C. Appeal to the Human Resources Director

The Human Resources Director shall review all written reports and may request additional information and documentation.

The Human Resources Director shall notify all concerned of a time and date to conduct an appeals hearing to take place as soon as possible, but not later than twenty-five (25) workdays after the problem causing event. The Human Resources Director shall review all written reports and may request additional information and documentation. At the hearing the Human Resources Director may receive new evidence, written or oral, from the division/department head and/or employee, which is germane to the issue. In deciding the issue on appeal, the Human Resources Director may confirm or modify the recommendation of the division/department head and recommend such order, as he or she may deem appropriate in the matter.

If the grievance cannot be resolved at this hearing the Human Resources Director will prepare a written report of all sides of the issue, including the recommendation of the division/department head and his or her own 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/department head, the grievance will be heard directly by the City Manager.

D. Appeal to the City Manager

The City Manager shall review all written reports and may request additional information and documentation.

The City Manager shall notify all concerned of a time and date to conduct an appeals hearing to take place as soon as possible, but not later than thirty (30) workdays after the problem causing event. At the hearing the City Manager may receive new evidence, written or oral, from the division/department head and/or employee, which is germane to the issue. In deciding the issue on appeal, the City Manager may confirm or modify the decision of the Human Resources Director and/or the division/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/department head, and the Human Resources Director of his ruling. This notice shall be made not later than thirty five (35) 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.