



# CITY OF SOUTHPORT

## Employee Policy Handbook

Effective September 1, 2023

## **About This Handbook/Disclaimer**

This Handbook has been prepared to help employees find answers to many questions that they may have regarding their employment with the City of Southport. Please take the necessary time to read it.

We do not expect this handbook to answer every question you may have; Department Heads, Supervisors and Human Resources can also serve as major sources of information.

Neither this handbook nor any other verbal or written communication by a management representative is, nor shall be, an agreement, contract of employment, express or implied, or a promise of treatment in any particular manner in any given situation, nor does it confer any contractual rights whatsoever. The City of Southport adheres to the policy of employment at will, which permits the City or the employee to end the employment relationship at any time, for any reason, with or without cause or notice.

No City representative, other than the City Manager, may modify at-will status and/or provide any special arrangement concerning terms or conditions of employment in an individual case or generally, and any such modification must be in writing and signed. In all instances within this policy manual, any references to the City or management as it relates to decisions on employees or employment will refer to the City Manager or a designee of the City Manager, and the City Manager shall have the final decision and authority for all matters related to employment of any person employed with the City or any person seeking employment with the City, as provided by NC General Statutes and the City of Southport Board of Alderman. Decisions made by Human Resources will be made in consultation with, and under the authority of, the City Manager or a designee of the City Manager.

Many matters covered in his handbook are also described in separate City documents. Those City documents are always controlling over any statement made in this handbook or by any member of management.

This handbook states general City guidelines. The City may, at any time, in its sole discretion, modify or vary from anything stated in this handbook, with or without notice, except for the rights of the parties to end employment at will, which may only be modified by an express written agreement signed by the employee and the City Manager.

This handbook supersedes all prior handbooks.

**CITY OF SOUTHPORT  
EMPLOYEE POLICY HANDBOOK**

BE IT RESOLVED by the City Board of Aldermen of the City of Southport that the following policies apply to the appointment, classification, benefits, salary, promotion, demotion, dismissal, and conditions of employment of the employees of the City.

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## **ARTICLE I. GENERAL PROVISIONS**

### **Section 1. Purpose of the Policy**

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

### **Section 2. At Will Employment**

The City of Southport is an “at will” employer. Nothing in this policy creates an employment contract or term between the City and its employees. No person has the authority to grant any employee any contractual rights of employment. The City reserves the right to modify the provisions of the Personnel Policy at any time.

### **Section 3. Merit Principle**

All appointments and promotions shall be made solely based on merit. Decisions regarding appointments and promotions are within the City’s discretion. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of such individual’s race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance, or behavior.

### **Section 4. Responsibilities in the Administration of the Personnel Program**

#### **Responsibilities of the City Board of Alderman**

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

#### **Responsibilities of the City Manager**

The City Manager shall be accountable to the Board of Alderman for the administration and technical direction of the personnel program. The City Manager shall appoint, suspend, and remove all city employees except those whose appointment is otherwise provided for by law. The City Manager shall make appointments, dismissals, and suspensions in accordance with the City Charter and other policies and procedures spelled out in other Articles in this Policy.

The City Manager shall supervise or perform:

- a) recommending rules and revisions to the personnel system to the City Board for consideration;
- b) making changes as necessary to maintain an up-to-date and accurate position classification plan;

- c) preparing and recommending necessary revisions to the pay plan; determining which employees shall be subject to the overtime provisions of Fair Labor Standards Act (FLSA);
- d) establishing and maintaining a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;
- e) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent and diverse applicants to meet the needs of the City;
- f) developing and implementing such administrative procedures as are necessary to implement these policies provided the administrative procedures are not in conflict with these policies; and
- g) performing such other duties as may be required by law or assigned by the City Board not inconsistent with this Policy.

### **Responsibilities of the Human Resources Director**

The responsibilities of the Human Resources Director, in collaboration with staff designated by the City Manager, are to make recommendations to the City Manager on the following:

- a) policies and revisions to the personnel system for the City Manager's consideration;
- b) changes as necessary to maintain an up-to-date and accurate position classification plan;
- c) necessary revisions to the pay plan;
- d) which employees shall be subject to the overtime provisions of FLSA;
- e) maintenance of a roster of all persons in the municipal service;
- f) establishment and maintenance of a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;
- g) development and administration of such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;
- h) development and/or coordination of training and educational programs for City employees;
- i) development and recommendation of such administrative procedures as are necessary to implement these policies provided the administrative procedures are not in conflict with these policies;
- j) periodic evaluations of the operation and effect of the personnel provisions of this Policy;
- k) actions that are needed to address barriers to effective employee communication, productivity, engagement, and morale; and



- l) such other duties as may be assigned by the City Manager not inconsistent with this Policy.

### **Responsibilities of Department Directors and Supervisors**

Department directors and supervisors shall meet their responsibilities as directed by the Board and/or the City Manager, being guided by this Policy and City ordinances. The City will require all department directors and supervisors to meet their responsibilities by:

- a) dealing with all employees in a fair and equitable manner and upholding the principles of equal employment opportunities;
- b) developing and motivating employees to reach their fullest potential through continued education and training;
- c) making objective evaluations of individual work performance and discussing these evaluations with each employee so as to bring about needed improvements and recognize employee contributions;
- d) keeping employees informed of their role in accomplishing the work of their unit and of conditions or changes affecting their work;
- e) making every effort to resolve employee problems and grievances and advising employees of their rights and privileges;
- f) cooperating and coordinating with other staff members in workflow and distribution of information;
- g) making proper performance documentation and ensuring Human Resources receives for maintaining in the employee performance files; and
- h) abiding by the provisions of these policies and ensuring employees abide by same.

### **Responsibilities of Employees**

Teamwork is an important part of an effective organization. Just as Managers and supervisors are responsible for keeping employees informed on relevant issues, employees are responsible for keeping their supervisors informed on relevant work issues. Employees are responsible for:

- a) following the chain of command in addressing work-related issues;
- b) reporting any contact with elected officials in a timely fashion through his or her supervisor to the City Manager so the City Manager is always making decisions based on complete information;
- c) referring any citizen issues that cannot be resolved satisfactorily through the chain of command; employees should not refer citizens to elected officials for operational issues; and
- d) keeping supervisors informed on any issues that serve as barriers to effective work performance or teamwork within the work unit.

## **Section 5. Application of Policies, Plan, Rules, and Regulations**

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all City employees. Members of the City Board and advisory Boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this policy shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

## **Section 6. Departmental Rules and Regulations**

Because of the operational requirements of the various departments of the City, each department is empowered to submit for review supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations must be reviewed and approved by the City Manager and shall not in any way conflict with the provisions of this Policy but shall be considered as a supplement to this Policy.

## **Section 7. Definitions**

For the purposes of this Policy, the following words and phrases shall have the meanings respectively ascribed to them by this section:

**Exempt employee.** An employee not subject to the Wage and Hour Provisions of the Fair Labor Standards Act meeting the definition of Administrative, Professional and Executive exemption.

**Full-time employee.** An employee who is in a position for which an average work week equals 40 hours, and continuous employment of at least 12 months are required by the City.

**Non-exempt employee.** An employee in a position that is subject to the Wage and Hour Provisions of the Fair Labor Standards Act.

**Part-time employee.** An employee who is in a position for which an average work week is at least 20 hours and less than 35 hours.

**Permanent position.** A position authorized as a regular position by the City Board. Regular permanent positions are assigned a specific job title, salary grade, salary range, duties, and minimum qualifications. Appointments to permanent positions are made through a competitive selection process. All City positions are subject to budget review and approval each year by the City Board.

**Probationary employee.** An employee appointed to a full or part-time position who has not yet successfully completed the designated probationary period of 90 days.

**Regular employee.** An employee appointed to a full or part-time position who has successfully completed the designated probationary period.

## **ARTICLE II. POSITION CLASSIFICATION PLAN**

### **Section 1. Purpose**

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

### **Section 2. Composition of the Position Classification Plan**

The classification plan shall consist of:

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

### **Section 3. Use of the Position Classification Plan**

The classification plan is to be used:

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

### **Section 4. Administration of the Position Classification Plan**

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

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

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

## **Section 6. Request for Reclassification**

Any employee who considers the position in which classified to be improper or due to a significant change in duties shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall transmit the request through the department director to the Human Resources Director. Upon receipt of such request, the Human Resources Director shall study the request, determine the merit of the reclassification, and recommend to the City Manager a revision to the classification and pay plan where necessary and such revision shall be approved by the City Board.

## **Section 7. Maintenance of the Classification and Pay Plan**

Because job duties change over time and the market pay rate changes at different rates for different jobs, comprehensive classification and pay plan reviews are needed periodically. When the organization is stable and budget allows, reviews are needed approximately every five years. When there is significant growth and/or change in the organization, comprehensive reviews are needed more frequently.

## **ARTICLE III. THE PAY PLAN**

### **Section 1. Definition**

The pay plan includes the basic salary schedule and the "Allocation of Classes to Grades" adopted by the City Board. The salary schedule consists of hiring, minimum (normally probation completion), midpoint and maximum rates of pay for all classes of positions.

### **Section 2. Administration and Maintenance**

The City Manager, assisted by the Human Resources Director, shall be responsible for the administration and maintenance of the pay plan. All employees covered by the pay plan shall be paid at a rate listed within the salary range established for the respective position classification, except for employees in a trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan.

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the City, and other factors. To this end, each budget year Human Resources shall make comparative studies of all factors affecting the level of salary ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and will recommend to the City Manager such changes in salary ranges as appear to be pertinent. Such changes shall be made in the salary ranges such that the hiring rate, minimum, midpoint, and maximum rates change according to the market subject to approval by the City Board.

Periodically, the City Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the City Board.

### **Section 3. Starting Salaries**

All persons employed in positions approved in the position classification plan shall be employed at the hiring rate for the classification in which they are employed. The City Manager can, based on qualifications, go above the hiring rate of the established salary range.

### **Section 4. Probationary Pay Increases**

Employees hired or promoted into the hiring rate of the pay range shall receive a salary increase of 5% upon successful completion of the designated 90-day probationary period. The Department Head does have the discretion to request that the HR Director and City Manager extend the probationary period by another 90 days.

Employees working in the Police Department serving a twelve-month probationary period are eligible for consideration based on performance for this pay increase after six months of successful employment. Employees with a twelve-month probationary period who receive an increase at the six-month review will not be eligible for an increase at the end of the twelve-month probationary period.

### **Section 5. Performance Pay**

Upward movement within the established salary range for an employee is not automatic, but rather based upon specific performance-related criteria and available funds. Procedures for determining performance levels and performance pay increases or other performance-related movement within the range shall be established in procedures approved by the City Manager.

### **Section 6. Performance Pay Bonus**

Employees who are at the maximum amount of the salary range for their position classification are eligible to be considered for a performance pay bonus at their regular performance evaluation time. Performance pay bonuses shall be awarded based upon the performance of the employee as described in the performance evaluation and in the same amounts as employees who are within the salary range. Performance pay bonuses shall be awarded in lump sum payments and do not become part of base pay.

### **Section 7. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications**

**Promotions.** The purpose of the promotional pay increase is to recognize and compensate the employee for taking on increased responsibility. When an employee is promoted, the employee's salary shall normally be advanced to the hiring rate of the new position, or to a salary which provides an increase of at least 5% over the employee's salary before the promotion, whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the City Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the City, taking into account the range of the position and relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the maximum rate of the new salary range. In setting the promotion salary, the City shall consider internal comparisons with other employees in the same or similar jobs.

**Demotions.** Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. When an employee is demoted to a position for which qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employee's qualifications to perform the job and consistent with the placement of other employees within the same classification in that salary range. If the current salary is within the new range, the employee's salary may be retained at the previous rate if appropriate. If the demotion is the result of discipline, the salary shall be decreased at least 5%. The salaries of demoted employees may be no greater than the maximum of the new range.

**Transfers.** The salary of an employee reassigned to a position in the same class or to a position in a different class within the same salary range shall not be changed by the reassignment.

**Reclassifications.** An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase consistent with the implementation strategy or an increase to the hiring rate of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion amount in the new range.

If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level with no increases to base pay until the range is increased above the employee's salary.

### **Section 8. Salary Effect of Salary Range Revisions**

When an individual class of positions is assigned to a higher salary range, employees in that class shall normally receive a pay increase consistent with the implementation strategy or to the minimum rate of the new range, whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount in the new range.

When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum rate established for the class, the salary of that employee shall be maintained at that level with no increases in base pay until such time as the employee's salary range is increased above the employee's current salary.

### **Section 9. Transition to a New Salary Plan**

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

- a) no employee shall receive a salary reduction as a result of the transition to a new salary plan;
- b) all employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised at least to the new minimum rate for their classes;
- c) all employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate within the salary schedule; and
- d) all employees being paid at a rate above the maximum rate established for their respective classes shall have their salaries maintained at that salary level with no increases until such time as the employees' salary range is increased above the employees' current salary.

### **Section 10. Effective Date of Salary Changes**

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period, or at such a specific date as may be provided by procedures approved by the City Manager.

### **Section 11. Fair Labor Standards Act and Overtime Pay Provisions**

Employees of the City can be requested and may be required to work in excess of their regularly scheduled hours as necessitated by the needs of the City and determined by the department director. Overtime work should normally be approved in advance by the department director, City Manager, or other designee.

To the extent that local government jurisdiction is required, the City will comply with the Fair Labor Standards Act (FLSA). The City Manager or his/her designee shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

#### **Non-Exempt Employees**

Employees are expected to work during all assigned periods exclusive of mealtimes. Employees are not to perform work at any time that they are not scheduled to work, unless they receive approval from their department director or supervisor, except in cases of emergency.

Department directors are responsible for ensuring that overtime hours are authorized, recorded, and

properly documented for overtime pay in accordance with the established record keeping forms and instructions.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position (40 hours in a 7-day period; 171 hours for sworn police and 212 for fire staff in a 28-day cycle). Hours worked beyond the FLSA established limit will be compensated for by paying at the appropriate overtime rate.

In determining eligibility for overtime in a work period, only hours worked shall be considered; in no event will vacation, sick leave, or holidays be included in the computation of hours worked for FLSA purposes.

In emergency conditions, when long and continuous work is required over multiple days, the City Manager shall approve special overtime compensation for hours worked including time on weekends and holidays.

### **Exempt Employees**

Employees in positions determined to be "exempt" from the FLSA (as Executive, Administrative or Professional staff) are paid on a salary basis and will not receive pay for hours worked in excess of their normal work periods.

In declared disaster or emergency situations or other situations as determined by the City Manager or Board requiring long and continuous hours of work, exempt employees will be compensated at an overtime rate and granted time off with pay for rest and recuperation to ensure safe working conditions for the duration of the emergency period.

## **Section 12. Stand-by and Call-back Pay**

The City provides a continuous twenty-four hour a day, seven day a week service to its customers. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the City is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal.

**Stand-by.** Stand-by ("on-call") time is defined as that time when an employee must carry a pager or other communication device and must respond immediately to calls for service. Non-exempt employees required to be on "stand-by" duty will be paid straight time for all hours worked up to 40. Hours worked while on standby are calculated beginning when the employee is in route to the work site and are added to the regular total of hours worked for the week. The City Manager will approve the standby rotation for each department.

Standby time requiring an employee to remain at a designated location or otherwise substantially restricting personal activities to be ready to respond when called is considered work time under the provisions of the FLSA.

**Call-back.** Non-exempt employees will be guaranteed a minimum payment of two hours of wages for being called back to work outside of normal working hours. Non-exempt employees will be paid at the established hourly rate of pay for hours worked outside their normal schedule if they are required to return to work and will receive overtime compensation for eligible overtime hours. A minimum of two hours' pay is guaranteed for non-exempt employees who are called back or for the actual hours worked, whichever is greater. "Call-back" provisions do not apply to previously scheduled overtime work



(scheduled one or more days in advance). If more than one callback occurs within a given shift, total callback time cannot exceed two hours unless the work time exceeds two hours.

**Section 13. Pay Procedures for Emergency & Essential Personnel**

When the City Manager announces that there is an emergency, those essential or emergency response personnel required to work will be paid as follows:

All employees will be paid their regular rate of pay in accordance with the Fair Labor Standards Act (FLSA) for all hours worked.

Non-Exempt employees will be subject to overtime compensation as outlined by the FLSA for all hours worked in a workweek.

Non-Exempt employees who are required to work overtime during this period shall be paid one and one-half times their regular rate of pay for all overtime worked during the designated FLSA workweek.

At the City Managers discretion, exempt employees may be paid a bonus amount equal to an amount by taking their current annual salary divided by 2080 and multiplied by 1.5 for all hours worked more than their regular FLSA workweek.

**Section 14. Payroll Deductions**

Deductions shall be made from each employee's salary as required by law. Additional deductions may be made for insurance or for other reasons as authorized by the City Manager considering the capability of the payroll system, associated increase in workload, and appropriateness of the deduction.

**Section 15. Hourly Rate of Pay**

Employees working in a part-time capacity with the same duties as full-time employees will normally work at a rate in the same salary range as the full-time employees. Special exceptions may apply for intermittent work as part of recreational events.

The hourly rate for employees working other than 40 hours per week, such as shift police officers working an average of 43 hours per week, will be determined by dividing the average number of hours scheduled per year into the annual salary for the position.

**Section 16. Longevity Pay**

Full-time employees of the City may be compensated for years of service by payment of a longevity supplement based on continuous years of service as of December 31st of each year. Longevity pay will normally be issued in the regular pay period preceding the Thanksgiving Holiday. Appropriate federal state, retirement, etc. deductions will be made. Continuous service is continuous employment including any approved leave or involuntary reduction in force.

Longevity amounts shall be as follows:

Years of Service	Longevity Amount
0 to 1	\$75
1 to 2	\$150

<u>2 to 4</u>	\$250
4 to 6	\$300
6 to 8	\$350
8 to 10	\$400
10 to 12	\$450
12 to 14	\$500
14 to 16	\$600
16 to 18	\$700
18 to 20	\$900
20 plus	\$1,000

**Section 17. Pay for Interim Assignments in a Higher-Level Classification**

An employee who is formally designated, for a period of at least 30 days or more, to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification shall normally receive an increase for the duration of the interim assignment. The employee shall receive a salary adjustment to the minimum rate of the job in which the employee is doing or an increase of 5%, whichever is greater. Criteria involved in determining the amount of the compensation will include:

- a) the difference between the existing job and that being filled on a temporary basis, and
- b) the degree to which the employee is expected to fulfill all the duties of the temporary assignment.

The salary increase shall be temporary and upon completion of the assignment, the employee shall go back to the salary he or she would have had if not assigned in the interim role, considering any increase the employee would have received if not placed in the interim role.

**Section 18. Certification and Educational Increases**

The City Manager will establish a schedule of salary increases to reward employees for attaining and maintaining certifications and obtaining degrees that increase the employee's value to the City. These increases should reflect certifications and/or degrees that exceed the requirements of the position classification specification.

## **ARTICLE IV. RECRUITMENT AND EMPLOYMENT**

### **Section 1. Equal Employment Opportunity Policy**

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

It is a violation of City policy to retaliate in any way against an employee who assists, participates in, or supports this policy or anyone making a bona-fide complaint under this policy or who participates or assists in any EEOC, OSHA or other internal or external processes protected by law.

### **Section 2. Implementation of Equal Employment Opportunity Policy**

The Human Resources Director and all personnel responsible for recruitment and employment will continue to review regularly the implementation of this Personnel Policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior. Notices regarding equal employment matters shall be posted in conspicuous places on City premises in places where notices are customarily posted.

### **Section 3. Recruitment, Selection and Appointment**

**Recruitment Sources.** When position vacancies occur, the Human Resources Office shall post the position opening through NEOGOV. Individuals shall be recruited from a geographic area as wide as necessary and for a period sufficient to ensure that well-qualified applicants are obtained for City service. In rare situations because of emergency conditions, high turnover, etc., the City may hire or promote without advertising jobs upon approval of the City Manager.

**Job Advertisements.** The City of Southport utilizes NEOGOV for all open positions. Job openings are listed on the City's website with a link to connect to the city's vacancies. Employment advertisements contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

**Application for Employment.** All persons expressing interest in employment with the City shall be given the opportunity to file an application for employment for positions which are being recruited. The City accepts applications and resumes only for vacant advertised positions.

**Application Reserve File.** Applications shall be kept in an inactive reserve file for a period of two years in accordance with Equal Employment Opportunity Commission guidelines.

**Selection.** Department directors, with the assistance of the Human Resources Director, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position, including criminal history where job-related. All selection devices administered by the City shall be valid measures of job performance.

**References and Background Investigations.** Before any commitment is made to an applicant, the City will conduct reference checks regarding the employee's qualifications and work performance. In addition, drug screening and criminal background investigations will be performed. Applicants will be asked to sign an appropriate release. Conviction of a crime is not automatically disqualifying. The City will consider the severity of the crime, degree to which the crime is job related to the job for which the applicant is being considered, and length of time since the conviction to determine the degree to which there is a business necessity for choosing not to hire the applicant.

**Work in the City of Southport Police Department requires a more detailed background investigation dictated by the Training and Standards Division.**

**Appointment.** Before any commitment is made to an applicant, either internal or external, the department director shall make recommendations to the Human Resources Director including the position to be filled and the salary to be paid. The Human Resources Director and department director shall recommend approval of appointments and the starting salary for all applicants to the City Manager. The City Manager or his/her designee shall approve appointments and the starting salary for all applicants. The Manager may determine terms of employment to include crediting service time for employees within the retirement system for the purposes of leave accrual and longevity.

#### **Section 4. Probationary Period**

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a 90-day probationary period, except that employees in police and fire shift staff and department directors shall serve a twelve-month probationary period. Employees hired as "trainees" shall remain on probation until the provisions of their traineeship are satisfied. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving a twelve-month probation shall have a probationary review at the end of six months as well as before the end of twelve months.

An important purpose of the probationary period is to serve as a trial period during which the employee demonstrates his or her ability to perform the work, demonstrates good work habits and the ability to work effectively with the public and coworkers. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. With approval of the City Manager probationary periods may be extended for a maximum of six additional months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this policy for disciplinary action. A new hire probationary employee who separates from City employment, either voluntarily or involuntarily, during the probationary period is not eligible for terminal pay for accrued annual leave.

A promoted employee who does not successfully complete the probationary period may be transferred

or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted and demoted employees who are on probation retain all other rights and benefits.

## **Section 5. Promotion**

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the City's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be appointed to that position. The City will balance three goals in the employment process:

- a) the benefits to employees and the organization of promotion from within;
- b) providing equal employment opportunity and a diversified workforce to the community; and
- c) obtaining the best possible employee who will provide the most productivity in that position.

Therefore, except in rare situations where previous City experience is essential (such as promotions to Police Shift Leader or Fire Captain), or exceptional qualifications of an internal candidate so indicate, the City will conduct an open recruitment and consider external and internal candidates simultaneously rather than automatically promote from within. Candidates for promotion shall be chosen based on their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

## **Section 6. Demotion**

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. Demotion may be voluntary or involuntary. An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such disciplinary demotion shall follow the disciplinary procedures outlined in this Policy.

An employee who wishes to accept a position with less complex duties and reduced responsibilities may request a demotion. A voluntary demotion is not a disciplinary action and is made without using the above-referenced disciplinary procedures.

## **Section 7. Transfer**

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application process. A department director wishing to transfer an employee to a different department or classification shall make a recommendation through the Human Resources Director to the City Manager with the consent of the receiving department director. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this Policy. Notwithstanding the employee's right to file a grievance, the City reserves the right to transfer employees either temporarily or permanently when doing so will serve the City's best interest.

An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

## ARTICLE V. CONDITIONS OF EMPLOYMENT

### Section 1. Work Schedule

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

### Section 2. Political Activity

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

- a) engage in any political or partisan activity while on duty;
- b) use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- c) be required as a duty of employment or as condition for employment, promotion, or tenure of office to contribute funds for political or partisan purposes;
- d) coerce or compel contributions from another employee of the City for political or partisan purposes;
- e) use any supplies, equipment or facilities of the City for political or partisan purposes;
- f) display any political advertisement in or on City property; or
- g) be a candidate for nomination or election to office under the City Charter. An active employee wishing to do so would have to step out of their position prior to being sworn in.

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

### Section 3. Outside Employment

The work of the City shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commissions and all self-employments must be reported in writing in advance to the employee's supervisor, who in turn will report it to the department director. The department director will review such employment for possible conflict of interest and then submit a record of the employment to the City Manager for review and approval. Conflicting and/or unreported outside employment are grounds for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee's personnel file.

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

- a) employment with organizations or in capacities that are regulated by the employee or employee's department; or
- b) employment with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's City duties.

An employee who sustains an injury or illness in connection with outside employment and is receiving worker's compensation from that employer shall not be entitled to receive City worker's compensation benefits or accrued City sick leave.

#### **Section 4. Dual Employment**

The City prohibits any employee from holding more than one position with the City if the combined positions will result in the employee working more than 40 hours per week in any week of the year unless approved by the City Manager. The City will consult and follow FLSA regulations in all dual employment cases to ensure that the regulations are followed recognizing that the Department of Labor does not always consider different City departments to be different occupational areas.

#### **Section 5. Employment of Relatives**

Two members of an immediate family shall not be employed in any City of Southport positions if such employment will result in one being in the chain of supervision of the other, nor where one member occupies a position which has influence over the other's employment, promotion, salary administration, or other related management or personnel considerations.

In keeping with the City's merit principle and the core values of honesty, integrity, respect and stewardship, the City believes it can best achieve effective and efficient service delivery only in an atmosphere of fairness and equity and where there is no perception of favoritism. This policy is intended to avoid circumstances that could create problems within the work unit or could undermine the public's perception of fair play in providing equal opportunity for employment to all qualified individuals. For these reasons, the City has strict limitations on the employment of relatives.

**For the purposes of this policy, immediate family shall be defined as wife, husband, mother, father, brother, sister, son, daughter, uncle, aunt, nephew, niece, mother-in-law, father-in-law, daughter-in-law, son-in-law, grandmother, grandfather, grandson and granddaughter, stepmother, stepfather, sister-in-law, and brother-in-law. It also includes other people living in the same household, who share a relationship comparable to immediate family members.**

The City also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, City Board Member, City Manager, Finance Officer, Human Resources Director, City Clerk, or City Attorney.

Other circumstances may also prohibit the hiring of family members. Otherwise, the City will consider employing family members or related persons in the service of the City, provided that such employment does not:

- a) result in a relative supervising relatives;
- b) result in a relative auditing the work of a relative;
- c) create a conflict of interest with either relative and the City; or
- d) create the potential or perception of favoritism.

This provision shall not apply retroactively to anyone employed when the provision was adopted by the City.

An employee who fails to report any existing relationship on his/her application will be subject to corrective action up to and including dismissal.

An employee who has a relationship must report changes to those relationships when applying for a promotional position with the City of Southport.

Failure of an employee or supervisor to report any relationship that might be restricted by this policy to HR will result in corrective action, up to, and including, dismissal.

## **Section 6. Harassment Prohibited**

The City prohibits harassment in any form that is based on race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance, or behavior. Harassment is defined as conduct that culminates in tangible employment action or is sufficiently severe or pervasive as to create a hostile work environment.

A particular form of harassment, sexual harassment, is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- c) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment includes repeated offensive sexual remarks, continual or repeated comments about an individual's body and offensive sexual language.

Any employee who believes that he or she may have a complaint of harassment may follow the Grievance Procedure described in this Policy or may file the complaint directly with the Human Resources Director, Department Director, City Manager, or the City Attorney. The Human Resources Director will ensure that an investigation is conducted into any allegation of harassment and advise the employee and appropriate management officials of the outcome of the investigation.

Employees who are found to be engaged in harassment are subject to disciplinary action up to and including dismissal. Employees making complaints of harassment are protected against retaliation from alleged harassers or other employees. Employees witnessing harassment shall also report such conduct to an appropriate City management official.

All claims of harassment will be thoroughly investigated. Employees are expected to report claims of harassment in good faith and the information provided to be truthful to the best of their knowledge. The City will endeavor to keep complaints, investigations, and resolutions confidential to the extent possible, but the City cannot compromise its obligation to investigate complaints.

## **Section 7. Gifts and Favors – Expectation of Ethical Conduct**

The proper operation of City government requires that public officials and employees be independent,



impartial, and responsible to the people; those governmental decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Therefore, no official or employee of the City may willfully receive or accept gifts or favors of any value, at any time, on or off the work premises, from vendors. This no-gift policy includes vendors or potential vendors providing food, beverages, meals, or entertainment such as sporting events. This no-gift policy includes any business courtesy offered such as a product discount or any other benefit if the benefit is not extended to all employees.

Exceptions to this policy include receipt of a gift or honorarium for participation in meetings, receipt of advertising items or souvenirs of nominal value, or receipt of meals furnished at conferences and banquets. Full participation by officials or employees of the City in activities of professional organizations in which they are a member is permitted even though the organization may receive donations from a contractor, subcontractor, or supplier. Exceptions to this policy also include food/lodging/travel/events (of nominal value) attended in an employee's official capacity, or gifts from family members, friends, or co-workers where it is that relationship which is the motivating factor for the gift.

### **Section 8. Performance Evaluation**

Supervisors and/or department directors shall normally conduct performance evaluation conferences with each employee upon completion of their probationary period and at least once a year thereafter on their anniversary date. These performance evaluations are intended to be comprehensive discussions of the accomplishments and successes as well as how employees can be more successful in their jobs. Performance Evaluations shall be documented in writing and placed in the employee's personnel file in a timely manner.

### **Section 9. Safety**

Safety is the responsibility of both the City and employees. It is the policy of the City to establish a safe work environment for employees. The City shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department directors and supervisors are responsible for ensuring safe work procedures, including the use of all required personal protective equipment and providing necessary safety training programs.

### **Section 10. Use of City Property and Equipment**

City equipment, vehicles, materials, tools, and supplies shall not be available for personal use and are not to be removed from City property except in the conduct of official City business, unless approved by the City Manager. All City property, including all electronic communications systems, issued to the employee shall be returned to the employee's supervisor upon termination of employment prior to the issuance of the final paycheck.

### **Section 11. Electronic Communications**

The City maintains electronic communications systems (e.g., voicemail, email, internet access) and provides access to telephones, computers, tablets, cell phones or other electronic equipment to assist employees while conducting business for the City. Employee access to the City's electronic resources requires responsibilities and is subject to relevant City policies and Local, State and Federal laws. Please refer to the City's "Computer, E-mail and Internet Usage Policy" for more information.

### **Section 12. Substance Abuse Policy**

The City is committed to a drug-free workplace to maintain a safe and healthy working environment for employees and a productive, effective workforce for the City's citizens. The City prohibits employees reporting to work with their ability to perform impaired by alcohol, illegal drugs, intentionally and inappropriately used prescriptions, over-the-counter drugs, or other chemicals and substances.

### **Section 13. Driver's License**

All employees who are in positions required on the class specification to maintain an active driver's license are required to do so as a condition of employment. If the driver's license is not in good standing, the employee may be suspended, demoted, or dismissed.

### **Section 14. Technology/Social Media Policy**

The City Manager will establish a separate Technology/Social Media/Electronic Communications Policy and communicate the policy to employees. The policy may be updated periodically as needed to react to changing technology.

### **Section 15. Non-Violent Workplace**

The City of Southport is a non-violent workplace. Threats, threatening behavior, or acts of violence against employees, visitors, guests, or other individuals by anyone on City property will not be tolerated. Workplace violence includes, but is not limited to, intimidation, threats, physical attacks, domestic violence, or property damage committed by anyone against the City or City employees in the workplace.

All employees are responsible to help ensure that the City avoids incidents of workplace violence. Employees shall not engage in or encourage another employee to engage in either physical or verbal confrontation with a potentially violent individual. Employees who overhear or become aware of any threatening communications from an employee or outside third party shall immediately report the information to the department head or City Manager.

If an employee feels that he/she has been threatened, the employee should report the occurrence immediately to the supervisor or department head who will in turn report the incident to the City Manager.

### **Section 16. Weapons Prohibited**

No person employed by the City, either paid or volunteer, is permitted to possess any firearm or other deadly weapon while performing duties, including while on City property or any City-owned vehicle or in any personal vehicle used by the employee to perform duties. (Law enforcement officers are exempt from this section while performing their law enforcement tasks.)

Violation of this policy will result in disciplinary action, up to and including dismissal for the first offense.

### **Section 17. Use of Tobacco Products**

The use of all tobacco products, either in City owned or leased buildings or in City owned or leased vehicles or equipment is prohibited. Tobacco use is permitted outside of buildings in areas defined by the City.

### **Section 18. Whistle Blower Protection**

The City prohibits discrimination or retaliatory action against an employee because the employee, in

good faith, files or threatens to file a claim or complaint, initiate an investigation, testify, or provide information to any person with respect to the Workers' Compensation Act, the North Carolina Wage and Hour Act, the Occupational Safety and Health Act, or the Mine Safety and Health Act. In addition, this policy covers NC General Statute 95-28.1 which prohibits discrimination against any person in possession of sickle cell trait or hemoglobin C trait, the Nation a Guard Reemployment Rights Act, the Pesticide Board, or Chap 90, Article 5F relating to Control of Potential Drug Paraphernalia Products.

## **Section 19. Dress Code and Personal Appearance**

The City of Southport is a place of business and is committed to a high standard of professionalism. City employees are expected to dress appropriately for the job being performed and are expected to use good judgment and to show courtesy to their co-workers by dressing in a manner that is presentable and appropriate. The City maintains a business casual approach to our attire. Here are some guidelines to help if you are uncertain about what this may mean:

### **What is business casual for women?**

- Blouses, shirts with/without collars. Nothing with inappropriate images or writing is allowed.
- Slacks, crop/capri pants and shorts that have a professional appearance and are knee length. Exercise pants are not permitted. Spandex leggings are only permitted if worn with a long top/dress.
- Denim is allowed on dress down Fridays. Jeans must be without holes or fraying and cutoffs or ripped jeans are not permitted.
- Skirts and dresses that are knee length.
- Open-toed shoes are permitted. However, overly casual shoes, like beach flip-flops are not allowed.

### **What is business casual for men?**

- Casual pants, slacks and shorts that have a professional appearance.
- Polos with a collar, crew-neck sweaters, and pullovers.
- Tie-up shoes, leather shoes and loafers.

Any questions related to the content of these guidelines, or their interpretation should be directed to Human Resources.

If you feel the City's dress code directly interferes with the prescriptions of your faith or other lifestyle choices, please contact Human Resources immediately.

Employees who are in uniform should dress in accordance with the required department standards. Employee questions concerning appropriate apparel, within a department where uniforms are worn, must be promptly directed to his or her supervisor. If questions or issues arise concerning these standards, they should be addressed to Human Resources.

At all times, uniformed employees must be aware they are representing the City and must conduct themselves accordingly. This includes refraining from wearing City uniforms in public locations that might be deemed controversial or might adversely affect the reputation of the City.

### **Casual Friday**

Casual Fridays offer employees one day's respite from the city's normal dress code, allowing them to wear casual attire, such as jeans. As noted above, clothing should be free of holes, fraying or rips. No inappropriate graphics should be worn at any time.

**Note:** In an event that a business meeting occurs on a Friday when it would not be appropriate to

dress casually, some employees may be required to dress in the normal business casual attire.

### **Disciplinary Consequences**

When an employee disregards our dress code, their supervisor should counsel them on what is appropriate. The employee should start respecting our dress code immediately. In some cases, supervisors may ask employees to return home to change.

Employees may face more severe consequences if they repeatedly violate our dress code.

### **Section 20. Computer, E-mail, and Internet Usage Policy**

The City of Southport recognizes that use of the Internet and e-mail is necessary in the workplace, and employees are encouraged to use the Internet and e-mail systems responsibly, as unacceptable use can place the City of Southport and others at risk.

This policy outlines the guidelines for acceptable use of the City of Southport's technology systems and must be followed in conjunction with other City of Southport policies such as governing appropriate workplace conduct and behavior. Any employee who abuses the company-provided access to e-mail, the Internet, or other electronic communications or networks, including social media, may be denied future access and, if appropriate, be subject to disciplinary action up to and including termination. The City of Southport complies with all applicable federal, state, and local laws as they concern the employer/employee relationship, and nothing contained herein should be misconstrued to violate any of the rights or responsibilities contained in such laws.

Questions regarding the appropriate use of City of Southport's electronic communications equipment or systems, including e-mail and the Internet, should be directed to your Department Head or our IT support contact.

The City of Southport has established the following guidelines for employee use of the company's technology and communications networks, including the Internet and e-mail, in an appropriate, ethical, and professional manner.

#### **Confidentiality and Monitoring**

All technology provided by the City of Southport, including computer systems, communication networks, company-related work records and other information stored electronically, is the property of the City of Southport and not the employee. In general, use of the company's technology systems and electronic communications should be job-related and not for personal convenience. The City of Southport reserves the right to examine, monitor and regulate e-mail and other electronic communications, directories, files, and all other content, including Internet use, transmitted by, or stored in its technology systems, whether onsite or offsite.

Internal and external e-mail, voice mail, text messages and other electronic communications are considered business records and may be subject to discovery in the event of litigation.

Employees must be aware of this possibility when communicating electronically within and outside the company.

#### **Appropriate Use**

The City of Southport employees are expected to use technology responsibly and productively as necessary for their jobs. Internet access and e-mail use are for job-related activities only.

Employees may not use the City of Southport's Internet, e-mail, or other electronic communications to

transmit, retrieve or store any communications or other content of a defamatory, discriminatory, harassing, or pornographic nature. No messages with derogatory or inflammatory remarks about an individual's race, age, disability, religion, national origin, physical attributes, or sexual preference may be transmitted. Harassment of any kind is prohibited.

Disparaging, abusive, profane, or offensive language and any illegal activities—including piracy, cracking, extortion, blackmail, copyright infringement and unauthorized access to any computers on the Internet or e-mail—are forbidden.

Copyrighted materials belonging to entities other than the City of Southport may not be transmitted by employees on the company's network without permission of the copyright holder.

Employees may not use the City of Southport's computer systems in a way that disrupts its use by others. This includes sending or receiving excessive numbers of large files and spamming (sending unsolicited e-mail to thousands of users).

**Employees are prohibited from downloading software or other program files or online services from the Internet without prior approval. All files or software should be passed through virus-protection programs prior to use. Failure to detect viruses could result in corruption or damage to files or unauthorized entry into company systems and networks.**

Every employee of the City of Southport is responsible for the content of all text, audio, video, or image files that he or she places or sends over the company's Internet and e-mail systems. No e-mail or other electronic communications may be sent that hide the identity of the sender or represent the sender as someone else. The City of Southport's corporate identity is attached to all outgoing e-mail communications, which should reflect corporate values and appropriate workplace language and conduct.

## **ARTICLE VI. EMPLOYEE BENEFITS**

### **Section 1. Eligibility**

All full-time employees working 30+ hours per week or more are eligible for employee benefits as provided for in this Article which are subject to change at the City's discretion and annual budget appropriations.

### **Section 2. Employee Group Health**

The City provides group health insurance programs for full-time employees and their families as specified under the terms of the group insurance contract.

The City pays the entire cost of health insurance for full-time employees. The City will comply with the Affordable Care Act by providing health insurance for all employees expected to work 30 or more hours per week or 130 hours per month. Full-time employees, and elected officials may, if they so desire, purchase available group health, dental and/or vision coverage through the City for qualified dependents within the stipulations of the insurance contract. Employees and elected officials will pay the amount stipulated by the City for their qualified dependents.

Information concerning cost and benefits shall be available to all employees from the Human Resources Office.

### **Section 3. Other Optional Insurance Plans**

The City may provide and/or make other insurance plans available to employees upon authorization of the City Manager and/or City Board. For information about optional group benefit programs, employees may contact the Human Resources office.

### **Section 4. Retirement**

Each employee who is expected to work for the City more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System upon hire date as a condition of employment and contribute the amount determined by the system. Each employee will communicate his/her decision to retire to their Supervisor and Human Resources 60 – 90 days prior to the intended date of retirement.

### **Section 5. Supplemental Retirement Benefits**

The City may provide supplemental retirement benefits for its full-time employees as determined in the budget each year. As prescribed by North Carolina State Law, the City will contribute a percentage of salary to the State 401(k) Plan for each sworn law enforcement officer (currently 5%).

All full-time employees may make voluntary contributions to the 401(k) Plan up to the limits established by law and the 401(k) provider. The City may contribute a percentage of salary to the State 401(k) Plan for each non-sworn employee, subject to availability of funds and approval by the City Board.

### **Section 6. Social Security**

The City, to the extent of its lawful authority and power, has extended Social Security benefits to its eligible employees.

## **Section 7. Workers' Compensation**

All employees of the City (full-time, part-time, and limited service) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once.

Responsibility for claiming compensation under the Workers' Compensation Act lies with the injured employee, and such claims must be filed by the employee with the City within 30 days from the date of injury. The department director and the Human Resources Director will assist the employee in filing the claim.

Pursuant to a declaration invoking Section 304 of the Homeland Security Act, this provision will also apply to reactions to smallpox vaccinations administered to City employees under the Homeland Security Act. Such reactions shall be treated the same as any other workers' compensation claim.

## **Section 8. Unemployment Compensation**

Local governments are covered by unemployment insurance. City employees may apply for benefits upon separation from their employment with the City through the local Division of Employment Security office where a determination of eligibility and benefits will be made.

## **Section 9. Law Enforcement Separation Allowance**

Every sworn law enforcement officer, as defined by N.C. Gen. Statute section 128-21(11b) or N.C. Gen. Statute section 143-166.50, shall be eligible for a separation allowance, as provided by N.C. Gen. Statute section 143-166.42, in the amount specified in N.C. Gen. Statute section 143-166.41(a).

Currently the law enforcement separation allowance is "equal to eighty-five hundredths' percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service". The City will pay this benefit on a bi-weekly basis.

Eligibility and continuation of these benefits are subject to the following conditions:

- a) the officer shall have completed 30 or more years of creditable service, or have attained 55 years of age at the time of retirement from the City and completed five or more years of creditable service as a sworn law enforcement officer (as defined in General Statute section 143-166.42); and
- b) the officer shall not have attained 62 years of age;
- c) the officer shall have completed at least five years of continuous service as a law enforcement officer immediately preceding a service retirement, as defined by N.C. Gen. Statute sections 143-166.41(a)(3) and 143-166.41(b);
- d) the law enforcement officer, after separation from City employment, notifies the City of any new employment involving local law enforcement duties. Such notification shall include the nature and extent of the employment, and any change of employment status.

Payment of separation allowance benefits to a retired officer shall cease at the first of:

- a) the death of the officer;
- b) the last day of the month in which the officer attains 62 years of age; or
- c) the first day of re-employment in any position in any local government in North Carolina requiring retirement system participation.

The City 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 these benefits. Participation in the retirement system is required by anyone scheduled to work 1,000 hours per year or more.

Should the separation allowance for law enforcement officers, now required by law, be rescinded, this separation allowance shall be rescinded at the same time.

### **Section 10. Credit Union Membership**

Employees of the City of Southport are eligible for membership in the North Carolina Local Government Employees' Federal Credit Union.

### **Section 11. Tuition Assistance Program**

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time which will improve their skills for their current job or prepare them for promotional opportunities with the City. Tuition, registration, fees, laboratory fees, and student fees are eligible expenses. Each year, as part of the budget, a maximum amount of tuition assistance per employee will be established. Satisfactory completion of the courses with a minimum grade of a B or better will be required for reimbursement. Requests for tuition assistance shall be submitted to the Human Resources Office prior to course registration and are subject to the review and approval of the Department Director and City Manager, subject to availability of funds.

### **Section 12. Employee Assistance Program**

The City offers an Employee Assistance Program (EAP) to help employees resolve a wide range of problems that may have a negative effect on job performance. EAP provides free and confidential services to employees and their immediate family members living within the household under the terms of the contract. Employees may choose to use the program, or they may be encouraged by their immediate supervisor when their job performance and/or behavior is unsatisfactory. Please refer to the City's Employee Assistance Program Policy.

### **Section 13. Travel and Expense Reimbursement**

Employees and appointed officials will from time to time be involved in out-of-city travel to attend schools, business meetings, conferences, etc. All reasonable expenses (e.g., meals, lodging, etc.) shall be reimbursed at the amount set by the City's Travel and Expense Reimbursement Policy.



## **ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE**

### **Section 1. Policy**

The policy of the City is to provide vacation leave, sick leave, and holiday leave to all full-time and part-time employees and to provide proportionately equivalent amounts to employees having average work weeks of different lengths. Employees shall accrue leave proportionately with each payroll.

### **Section 2. Holidays**

The City will follow the holiday schedule as published by the State of North Carolina for state employees.

Employees wishing to schedule time off for religious observances, other than those observed by the City, may request vacation leave from their respective department directors. The department director will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observances may be denied only when granting leave would create an undue hardship for the City.

### **Section 3. Holidays: Effect on Other Types of Leave**

Regular holidays which occur during a vacation, sick or other leave period of any employee shall not be considered as vacation, sick, or other leave. Employees must work the day prior to a holiday and the day after a holiday unless previously requested off.

### **Section 4. Holidays: Compensation When Work is Required**

Non-Exempt employees who are required to work on a scheduled holiday will be paid one and one-half times their regular rate of pay.

At the City Manager's discretion, exempt employees may be awarded a bonus due to excessive hours over a holiday period. The bonus is calculated by taking their current annual salary divided by 2080 and multiplied by 1.5 for all hours worked in excess of their regular FLSA workweek.

### **Section 5. Vacation Leave**

Vacation is a privilege granted to employees by the City. Vacation leave is intended to be used for rest and relaxation, school appointments, and other personal needs. Vacation should be requested in advance in methods determined by the department and approved by the supervisor. Staffing needs may be grounds for denying vacation requests to meet operational deadlines.

Vacation leave may also be used by employees who wish to observe religious holidays other than those granted by the City. Employees who wish to use leave for religious observances must request leave from their respective department directors. The department director will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observance may be denied only when granting the leave would create an undue hardship for the City.

### **Section 6. Vacation Leave: Accrual Rate**

Each full-time regular employee of the City will accrue vacation on the following schedule, provided that the employee is active and eligible to contribute to the North Carolina Local Government Employees

Retirement System. Employees who are in a paid leave status shall be eligible for accrual of vacation leave. Employees on unpaid leave shall not accrue vacation or any other leave. (See Section 14 of this Article for more information.)

**Hours Accrued per Year**

<b>Years of Service</b>	<b>40 Hrs (Regular)</b>	<b>43 Hrs (Police)</b>	<b>53 Hrs (Fire)</b>
0-2	80	86	106.00
2-5	96	103.10	127.20
5-10	120	128.75	159.00
10-15	144	154.40	190.80
15-20	168	180.05	222.60
20 and over	192	205.70	254.40

If an employee has creditable service (which counts towards retirement) in the North Carolina Local Government Employees Retirement System and the employee has not withdrawn accumulated retirement contributions, the employee shall be given credit for those years served when computing annual vacation. These years of service must be verifiable via ORBIT.

**Section 7. Vacation Leave: Manner of Taking**

Employees shall be granted the use of accrued vacation leave upon request in advance at those times designated by the department director which will least obstruct normal operations of the City. Department directors are responsible for ensuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation may be taken in quarter hour increments. Employees may only use accrued vacation time and may be paid for time that exceeds their accrued balance. Failure to request or take vacation leave without prior approval may result in disciplinary action. Notwithstanding the procedures described in this Article, employees will use accrued compensatory time before using accrued vacation leave.

**Section 8. Vacation Leave: Payment upon Separation**

An employee who has successfully completed the established probationary period for his/her position will normally be paid for accumulated vacation leave upon separation not to exceed 30 days provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation, thirty days for department directors.

Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the City Manager when deemed to be in the best interest of the City.

**Section 9. Vacation Leave: Payment upon Death**

The estate of an employee who dies while employed by the City shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximums established in Section 8 of this Article.

**Section 10. Sick Leave**

Sick Leave with pay is a privilege granted to employees by the City, not a right, and may be used only for the purposes described in this Policy. Abuse of sick leave privileges will subject the employee to

disciplinary action.

Sick Leave may be used for the following reasons: sickness, non-job-related bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

Sick leave also may be used when an employee must care for a member of his or her immediate family who is ill. For the purposes of this benefit, immediate family is defined as wife, husband, mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson, and granddaughter. Also included is the step-, half- and in-law relationships. It also includes other people living in the same household, who share a relationship comparable to immediate family members.

Sick leave may also be used to supplement Workers' Compensation Disability Leave both during the waiting period before Workers' Compensation benefits begin, and afterward to supplement the remaining one third of salary, except that the employee may not exceed the regular gross salary amount using this provision.

Notification of the desire to take sick leave should be submitted to the employee's supervisor according to departmental procedures.

### **Section 11. Sick Leave: Accrual Rate and Accumulation**

Sick leave shall accrue at a rate of 3.69 hours per bi-weekly pay period for general employees working a 40-hour work week. Sick leave for full-time employees working other than the basic forty-hour work schedule (for example: police accrue at the rate of 3.88 hours per bi-weekly pay period and fire shift staff accrue at a rate of 4.89 hours per bi-weekly pay period) shall be prorated as described in this Article. Sick leave will be cumulative for an indefinite period and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Governmental Employees' Retirement System. For further information, please see Section 14 of this Article.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the City, except as stated above for retirement or upon reinstatement within one year of separation.

### **Section 12. Transfer of Sick Leave from Previous Employer**

The City will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the North Carolina State or Local Government Retirement Systems and the employee did not withdraw accumulated retirement contributions from that employer when leaving employment.

The sick leave amount must be certified by the previous employer, and it is the employee's responsibility to provide documentation from his or her previous employer. The employee shall request credit for his/her eligible sick leave balance within 90 days of hire with the City or run the risk of forfeiting the balance transfer. Transferred sick leave will be credited to the employee upon successful completion of the six months of employment. After six months, the sick leave will be treated as though it were earned with the City of Southport and may be used as any other accrued sick leave by the employee.

### **Section 13. Sick Leave: Medical Certification**

The employee's supervisor or department director may require a physician's certificate certifying the employee's or employee's family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern

of absenteeism." The employee may be required to submit to such medical examination or inquiry as the department director deems desirable. The department director shall be responsible for the application of this provision to the end that:

- a) employees shall not be on duty when they might endanger their health or the health of other employees; and
- b) there will be no abuse of leave privileges.

Claiming sick leave under false pretense to obtain a day off with pay shall subject the employee to disciplinary action up to and including dismissal.

#### **Section 14. Leave Pro-rated**

Holiday, annual, and sick leave earned by full-time employees with more or fewer hours than the basic work week (40 hours) shall be determined by the following formula:

- a) the average number of hours scheduled for work per week by such employees shall be divided by the number of hours in the basic work week (usually 40 hours);
- b) the proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week (40 hours);
- c) the number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned or divided by 26 shall be the number of hours of leave earned biweekly and divided by 52 would be the amount of leave earned weekly.

For example, a police officer working 12-hour shifts is scheduled to work 2184 hours per year, or 42 hours per week. Forty-two divided by 40 equals 1.05. 1.05 becomes the ratio by which all leave for a 40 hours per week person is multiplied. So, if a 40 hours per week person earns 8 hours per month sick leave, a 42 hours per week person earns 8.4 hours (8 X 1.05).

#### **Section 15. Bereavement Leave**

An employee may have up to three days per year, at full pay, granted in case of death in the immediate family. For the purposes of this benefit, immediate family is defined as spouse, child, parent, sibling, grandparent, and grandchild, to include in-law, step, and half relationships. Additional time or time to attend funerals of other family members may be charged to vacation leave or leave without pay. Bereavement Leave does not accrue from year to year.

#### **Section 16. Family and Medical Leave**

The City will grant up to 12 weeks of family and medical leave per twelve months to eligible employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). Employees are eligible when the City has 50 or more employees or when determined by the City, whichever comes first. The leave may be paid (coordinated with the City's Vacation and Sick Leave policies), unpaid, or a combination of paid and unpaid. Earned compensatory time must be used first, followed by any holiday, sick or vacation time, once compensatory has been exhausted. Unpaid leave will be granted only when the employee has exhausted all appropriate types of paid leave. Additional time away from the job beyond the 12-week period may be approved in accordance with the City's Leave Without Pay policy.

To qualify for FMLA coverage, the employee must have worked for the employer 12 months or 52 weeks; these do not have to be consecutive. However, the employee must have worked 1,250 hours during the twelve-month period immediately before the date when the FMLA time begins.

Family and medical leave can be used for the following reasons:

- a) the birth of a child and to care for that child;
- b) the placement of a child for adoption or foster care;
- c) to care for a spouse, child, or parent with a serious health condition;
- d) the serious health condition of the employee; or
- e) military exigency.

A serious health condition is defined as a condition which requires inpatient care at a hospital, hospice, or residential medical care facility, or a condition which requires continuing care by a licensed health care provider. This policy covers illness of a serious and long-term nature resulting in recurring intermittent or lengthy absences. Generally, a chronic or long-term health condition which results in a period of incapacity for more than three days would be considered a serious health condition.

If a husband and wife both work for the City and each wish to take leave for the birth of a child, adoption, or placement of a child in foster care, or to care for a parent (not parent in-law) with a serious health condition, the husband and wife together may only take a total of 12 weeks leave under FMLA.

An employee taking leave for the birth of a child may use paid sick leave for the period of actual disability, based on medical certification. The employee shall then use all paid vacation, accrued compensatory time and Leave Without Pay for the remainder of the 12-week period.

“Military Exigency” is a qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a military service member (reserve or national guard) under a call or order to federal active duty in support of a contingency operation. Qualifying events are:

- a) deployment of service member with seven or fewer days’ notice;
- b) military ceremonies and events such as family-assistance or informational programs related to the family member’s active duty or call to active duty;
- c) urgent, immediate childcare or arranging for alternative childcare for the children of service members;
- d) attending school or daycare meetings relating to the child of service member;
- e) making financial or legal arrangements related to a family member’s active-duty status or call to active duty;
- f) taking up to five days leave to spend with a covered military member who is on short-term temporary rest and recuperation leave during deployment;
- g) attending counseling provided by someone other than a health provider for oneself, the covered military member, or the child of the military member, the need for which arises from the active-

duty service or call to active-duty status or the covered military member; or

- h) post-deployment activities for a period of ninety days after the termination of the service member's active-duty status.

**Military Caregiver Leave:** An employee whose spouse, son, daughter, parent or next of kin is a current service member who is undergoing treatment, therapy, recuperation, or outpatient treatment or has temporary disability retirement for injury or illness sustained in the line of duty, is eligible for 26 weeks of FMLA leave in a single 12-month period. During a single 12-month period, the employee is eligible for a total of 26 weeks of all types of FMLA Leave combined.

The request for the use of leave must be made in writing by the employee and approved by the department director or City Manager.

An employee who takes leave under this policy will return to the same job or a job with equivalent status, pay, benefits, and other employment terms. The position will be the same or one which entails substantially equivalent skill, effort, responsibility, and authority.

### **Section 17. Family Medical Leave – Certification**

To qualify for leave under this law, the City requires medical certification. This statement from the employee's or the family member's physician should include the date when the condition began, its expected duration, diagnosis, and brief statement of treatment. For the employee's own health condition, it should state that the employee is unable to perform the essential functions of his/her position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and the employee's presence would be beneficial or desirable.

This certification should be furnished at least 30 days prior to the needed leave unless the employee's or family member's condition is a sudden one. The certification should be furnished as soon as possible (no longer than 15 days from the date of the employee's request). The certification and request must be made to the department director and filed with the Human Resources Director.

The employee is expected to return to work at the end of the time frame stated in the medical certification unless he/she has requested additional time in writing under the City's Leave Without Pay policy.

### **Section 18. Family Medical Leave: Retention and Continuation of Benefits**

When an employee is on leave under FMLA, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the City will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period.

Other insurance and payroll deductions are the responsibility of the employee, and the employee must make those payments for continued coverage of that benefit by the first of each month.

After using all paid leave for which the employee qualifies, the employee on FMLA may use Leave Without Pay for the remainder of the FMLA 12/26-week entitlement. An employee ceases to earn holiday or leave credits on the date Leave Without Pay begins.

### **Section 19. Leave Without Pay**

A full-time or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the City Manager. Leave Without Pay may be granted by the City Manager upon the recommendation of the Department Director and Human Resources Director. The leave may be used for reasons of personal disability, sickness or disability of immediate family members, continuation of education, specific work that will permit the City to benefit by the experience gained or the work performed or for other reasons deemed justified by the City Manager. An employee must exhaust all compensatory time before being placed on Leave Without Pay status.

The employee is obligated to return to duty within or at the end of the time determined appropriate by the City Manager. Upon returning to duty after being on Leave Without Pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay.

If the employee decides not to return to work, the department director shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested and granted, shall be considered a resignation.

An employee shall retain all unused vacation and sick leave while on Leave Without Pay. An employee ceases to earn holiday or leave credits on the date Leave Without Pay begins. The employee may continue to be eligible for benefits under the City's group insurance plans at his or her own expense, subject to any regulation adopted by the City and the regulations of the insurance carrier. If the Leave Without Pay is for a circumstance that coincides with FMLA or USERRA then the provisions of those policies will apply.

## **Section 20. Workers' Compensation Leave**

An employee absent from duty because of sickness or disability covered by the North Carolina Worker's Compensation Act may elect to use accrued sick leave, vacation, or compensatory time during the first waiting period of seven days. Once Worker's Compensation benefits begin, the employee may supplement the two thirds' payments with one third of a day of sick leave, except that the employee may not exceed the regular gross salary amount using this provision. The employee will not be required to reimburse the City for this paid leave in the event the absence extends beyond twenty-one days and the first seven days is paid by Worker's Compensation.

Limited-Service employees will be placed on leave without pay effective from the date of injury. Once the waiting period is over, workers' compensation covers two thirds of regular pay.

Any worker's compensation disability that qualifies under the requirements of FMLA shall run concurrently with FMLA. An employee on worker's compensation leave without pay will be permitted to continue to be eligible for benefits under the City's group insurance plans during the period of worker's compensation leave that is concurrent with FMLA.

Other insurance and payroll deductions are the responsibility of the employee, and the employee must make those payments for continued coverage of that benefit. Any amounts owed are due and payable by the first of the month.

An employee shall retain all unused vacation and sick leave while on Worker's Compensation Leave Without Pay. An employee ceases to earn holiday or leave credits on the date Worker's Compensation Leave without Pay begins. After the period of FMLA eligibility ends, the employee may continue to be eligible for benefits under the City's group insurance plans at his or her own expense subject to the regulations of the insurance carrier. Upon reinstatement, an employee's salary will be computed based on the last salary earned plus any increment or other salary increase to which the employee would have

been entitled during the disability covered by workers' compensation.

An employee on workers' compensation leave may return to work on light or restricted duty after obtaining a physician's statement stating the employee's ability to do so. The decision to allow an employee back on light duty and to determine the location of the light duty rests with the City.

### **Section 21. Military and other USERRA Leave**

The City will fully comply with the requirements of the 1994 Uniformed Services Employment and Re-Employment Rights Act (USERRA) and related federal regulations. For the purposes of USERRA covered employees are the following:

- a) Armed Forces Active and Reserve (Army, Navy, Marine Corps, Air Force, Coast Guard)
- b) Army National Guard and Air National Guard
- c) FEMA's Disaster Assistance Teams
- d) Commissioned Corps of the Public Health Service
- e) Military Service Academies
- f) Reserve Officer's Training Corps (ROTC)

An employee taking leave under USERRA shall be eligible to take accumulated vacation leave, accrued compensatory time or be placed in a Leave Without Pay status, and the provisions of that leave shall apply. While taking USERRA leave, the employee's unused leave balances will be retained and any seniority-based benefits such as leave accrual rates will continue to accrue.

Employees performing USERRA duty of more than 30 days may elect to continue the City's health care for up to 24 months but will be responsible for paying the insurance premiums up to 102% of the premium costs. Employees whose USERRA duty is less than 31 days will have their health insurance coverage paid as if they were at work with the City.

### **Military Training**

In addition to complying with the requirements of USERRA, the City provides additional benefits for military training. Full and part-time employees who are members of an Armed Forces Reserve organization or National Guard shall be granted fifteen (15) calendar days per year for military training with pay. Regular employees choosing to use military training leave may claim up to ten (10) days of differential pay per calendar year provided the days are recorded as military training leave and the military basic pay is less than the employee's regular City pay. To claim differential pay, the employee must submit a copy of his/her military orders, pay vouchers, leave and earnings statement and/or other appropriate documentation evidencing performance and compensation pertinent to the military duty.

If such duty is required beyond the fifteen calendar days, the employee shall be eligible to take accumulated comp time and vacation leave or be placed in a Leave Without Pay status, and the provisions of that leave shall apply. While on military leave, seniority-based benefits such as leave accrual rates shall continue to accrue as if the employee was actively at work. Employees on extended military leave will remain eligible for health benefits on a voluntary basis, at the employee's expense for a period of 24 months.



Limited-Service employees will be granted time off without pay to meet their military reserve or National Guard training obligations.

## **Section 22. Reinstatement Following Military and other USERRA Service**

An employee who volunteers or is called to active duty with the United States military forces, and who returns to work in less than five years will be returned to the same or like position he or she occupied prior to the active-duty enlistment with full seniority, status, leave accrual rates and pay as if there had been no break in employment. A military discharge form "DD214" with an honorable discharge must be submitted with the notification of intent to return to work.

Time limits for employees to reapply for return to work after release from military service are:

- a) less than 31 days absence - employee must report to employer by the next business day.
- b) 31 days-180 days absence - notification to the supervisor must be submitted within 14 days.
- c) more than 180 days absence - notification to the supervisor must be submitted within 90 days.

All reporting deadlines are extended for two years if the employee is injured during USERRA service.

## **Section 23. Jury Duty**

A full-time City employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, during regular working hours, shall receive leave with pay for such duty during the required absence without having to use accumulated vacation or sick leave. The Clerk of Court must certify time spent on jury, the burden of proof is on the employee. While on civil leave, benefits and leave shall accrue as though on regular duty. Any court fees paid to the employee are allowed to be retained by the employee.

## **Section 24. Parental School/Volunteer Leave**

A City employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) or member of a civic, religious or community service group must be granted up to 4 hours of paid leave annually to involve him or herself in school activities of his or her child(ren) or volunteer and community service activities (NC General Statute 95-28.3)

This leave is subject to the three following conditions:

- a) the leave must be taken at a time mutually agreed upon by the employee and the City;
- b) the City requires the employee to request the leave in writing prior to the time of the desired leave; and
- c) the City may require written verification from the school or organization that the employee was involved with during the leave time.

## **Section 25. Sick Leave Pool**

To have a method of providing sick leave to employees with an unusual use of sick leave that cause them to exhaust their sick and vacation balances, a sick leave pool is established which will allow employees to contribute to or draw from the balance subject to the following provisions:

- 1) Employees may contribute some of their sick or vacation leave balance so long as the amount contributed does not exceed 10% of their unused balance and that the employee will have a balance of at least 80 hours after the transfer has been made. A form to have leave transferred may be obtained from the HR Office.
- 2) Eligible employees may draw sick leave from this balance once they have exhausted all their own leave balances.
- 3) All employees of the City of Southport are eligible to participate in a sick leave pool after completion of one continuous year of employment. Employees coming to the City of Southport from another state employer are eligible to participate after 30 days from their date of hire into the City of Southport.
- 4) Only the amount in the pool will be allowed to be drawn against.
- 5) No employee shall be pressured to contribute to this pool and all contributions shall be voluntary. Employees' records of contributions or lack thereof shall not be a public record but shall be a part of their personnel file only for the purpose of determining the reason for the reduction of their sick leave balance.
- 6) Each illness or absence giving rise to a need for use of sick leave from the City's Sick Leave Pool, shall be treated as a separate need and shall require the request procedure to be completed. The request is submitted to the employee's department head for approval and recommendation to the City Manager. The request shall state the reason for the need and anticipated return to work date. The department head and employee will be notified of the City Manager's action. If use of the sick leave pool is approved, it shall be used in the same manner as regular sick leave until the employee returns to work or the sick leave pool is exhausted.
- 7) Leave donated to the pool shall remain in the pool until used or this policy is rescinded.

## **Section 26. Adverse Weather/Hazardous Conditions**

The City has responsibility for several emergency services including law enforcement and fire services. Adequate staff are required to operate these critical services seven days per week and 24 hours per day in all weather. Department heads should designate which staff are in critical positions and are required to report to work regardless of weather or other hazardous conditions.

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

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

City offices and departments shall remain open for the full scheduled working day unless authorization for closing or other deviation is received from the City Manager's office. The Manager will consider the hazard of driving conditions and other relevant factors in determining whether to close City offices. All departments and offices will be given sufficient advance notice of any authorized closing of noncritical City functions. Upon an authorized closing, non-critical staff are not charged accrued leave for the hours not worked. Employees who leave work before an official early closing time, as well as employees

who report for work late or do not report for work because of hazardous conditions may use earned vacation or compensatory leave for days or hours not worked.

### **Section 27. Break Time for Nursing Mothers**

Pursuant to the Fair Labor Standards Act, the City will provide a break time for any employee to express fresh milk for her nursing child for one year after the child's birth each time such employee has the need to express milk. The City will provide an employee with a place other than a bathroom that is shielded from co-workers and the public which may be used by an employee to express breast milk. An employee with this need should contact the HR Office.

### **Section 28. Excessive Absenteeism**

- a) **Absence:** Unexcused absences can be a reason for dismissal. Unexcused absences involve taking unapproved leave or using sick time for an unapproved reason. Excused absences, when possible, should be authorized in advance by the immediate supervisor. Three (3) days without reporting to work or contacting the appropriate official shall be considered a voluntary resignation.
- b) **Tardiness:** Tardiness will be considered unexcused except in situations approved by the immediate supervisor. Excessive, unexcused tardiness may lead to disciplinary action up to and including termination.

## **ARTICLE VIII. SEPARATION AND REINSTATEMENT**

### **Section 1. Types of Separations**

All separations of employees from positions in the service of the City shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, reduction in force, disability, voluntary retirement, dismissal, or death.

### **Section 2. Resignation**

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two calendar weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation unless the notification requirement is waived upon recommendation of the department director and approval by the City Manager. Thirty days' notice is expected of department directors and the City Manager.

Three consecutive days of absence without contacting the immediate supervisor or department director may be considered a voluntary resignation. Sick leave will only be approved during the final two weeks of a notice with a physician's certification or comparable documentation.

### **Section 3. Reduction in Force**

If a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks' notice of the anticipated action. No regular employee shall be separated because of a reduction in force while there are Limited Service 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 Limited Service or probationary employee.

### **Section 4. Disability**

The City will comply with the Americans with Disabilities act and will make all responsible efforts to provide reasonable accommodation to employees who may be or become disabled. An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the City. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the City Manager. The City may require an examination, at the City's expense, performed by a physician of the City's choice.

Employees who meet the requirements of the North Carolina Local Governmental Employees Retirement System may qualify for a disability retirement. Information about this option is available from the Human Resources Office or the Retirement System.

### **Section 5. Voluntary Retirement**

An employee who meets the conditions set forth under the provisions of the North Carolina Local Governmental Employee's Retirement System may elect to retire and receive all benefits earned.

## **Section 6. Death**

Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee.

## **Section 7. Dismissal**

An employee may be dismissed in accordance with the provisions and procedures of Article IX.

## **Section 8. Reinstatement**

An employee who is separated because of a reduction in force or who resigns while in good standing may be reinstated within one year of the date of separation, upon recommendation of the department director, and upon approval of the City Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave, seniority, and vacation accrual rate.

## **Section 9. Rehiring**

An employee who resigns while in good standing may be rehired with the approval of the City Manager, and may be regarded as a new employee, subject to all the provisions of the rules and regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired for the same or a similar position.

## **Section 10. Pay and Deductions Upon Separation of Employment**

Upon termination of employment, the City will deduct and withhold from the final paycheck of the employee any amount owed to the City for group insurance premiums, unreturned equipment/property, uniforms, or any other indebtedness to the City. To the fullest extent of the law, the final paycheck will not be issued until all indebtedness to the City has been determined and resolved.

The final paycheck generally includes payment for accumulated vacation leave (not to exceed 30 days) and overtime pay to which the employee is entitled, subject to deduction for indebtedness to the City as outlined above.

## **ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT**

### **Section 1. Disciplinary Action for Unsatisfactory Job Performance**

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. The Human Resources Office will be available to assist all parties with the procedures in taking or responding to disciplinary actions. All cases of disciplinary suspension, demotion, or dismissal must be approved by the City Manager prior to giving final notice to the employee.

### **Section 2. Unsatisfactory Job Performance Defined**

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

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

- a) demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- b) careless, negligent or improper use of City property or equipment;
- c) physical or mental incapacity to perform duties after reasonable accommodation;
- d) discourteous treatment of the public or other employees;
- e) absence without approved leave;
- f) improper use of leave privileges;
- g) failure to report for duty at the assigned time and place;
- h) failure to complete work within time frames established in work plan or work standards;
- i) failure to meet work standards over a period of time;
- j) failure to follow the chain of command to address work-related issues;
- k) failure to maintain certifications required by the job; or
- l) Improper use of City's computers or other technology or violations of the social media policy.

### **Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance**

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

An employee whose job performance is unsatisfactory over a period should normally receive at least

two documented warnings, one of which may be a final written warning, from the supervisor before disciplinary action resulting in dismissal is taken by the City Manager. Grossly negligent job performance which adversely impacts city operation does not require two (2) written warning and maybe cause for immediate dismissal. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the supervisor should use the following steps:

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

Disciplinary suspensions are for the purpose of communicating the seriousness of the performance deficiency, not for the purpose of punishment, and should not generally exceed three days (24 hours) for non-exempt employees. Suspensions for exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status. Under FLSA suspensions of less than a week are authorized for major safety violations or infractions of workplace conduct rules (detrimental personal conduct).

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

If after suspension and/or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed. Dismissals are appropriate when the employee has shown he/she is unwilling or unable to perform work in a manner that meets the work and conduct standards of the City.

#### **Section 4. Disciplinary Action for Detrimental Personal Conduct**

Normally, the Department Director or City Manager would place the employee on non-disciplinary suspension prior to making a disciplinary determination to allow time to gather facts regarding the detrimental personal conduct and make a determination regarding the severity of the conduct.

With the approval of the City Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to City service in order to:

- a) avoid undue disruption of work;
- b) to protect the safety of persons or property; or
- c) for other serious reasons.

Disciplinary suspensions should not normally exceed three workdays for nonexempt employees. Suspension of exempt employees shall be for one full work week in accordance with FLSA requirements to maintain exempt status.

In exigent circumstances, a department director or designated supervisor may, with or without prior approval, suspend employees for the remainder of the workday. In such cases, the department director shall immediately notify the City Manager.

## **Section 5. Detrimental Personal Conduct Defined**

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

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

- a) demonstrated dishonesty, fraud or theft;
- b) conviction of a felony or the entry of a plea of nolo contendere thereto;
- c) falsification of records for personal profit, to grant special privileges, or to obtain employment;
- d) willful misuse or gross negligence in the handling of City funds or personal use of equipment or supplies;
- e) willful or wanton damage or destruction to property;
- f) willful or wanton acts that endanger the lives and property of others;
- g) possession of unauthorized firearms or other lethal weapons on the job;
- h) brutality in the performance of duties;
- i) reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- j) engaging in incompatible employment or serving a conflicting interest;
- k) request or acceptance of gifts in exchange for favors or influence;
- l) engaging in political activity prohibited by this Policy;
- m) harassment of an employee and/or the public on the basis of sex or any other protected class status;
- n) harassment of an employee or the public with threatening or obscene language and/or gestures or any incidence of workplace violence; or
- o) stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work.

## **Section 6. Pre-Dismissal Conference**

Before dismissal action is taken, whether for failure in personal conduct or failure in performance of



duties, the department director, or City Manager (in the case of disciplinary action of a department director) will conduct a pre-dismissal conference. At this conference, the employee may present any response to the proposed dismissal to the department director. The department director will consider the employee's response, if any, to the proposed dismissal, and will, within three working days following the pre-dismissal conference, notify the employee in writing of the final decision after obtaining approval of the decision from the City Manager. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights.

### **Section 7. Non-Disciplinary Suspension**

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

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

If the employee is reinstated following the suspension such employee shall not lose any compensation or benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits except for accrued vacation and sick leave shall be maintained during the period of suspension.

### **Section 8. Name Clearing Hearing**

The purpose of the Name Clearing Hearing is to provide an opportunity for demoted or dismissed employees to present information in public that they believe counters any negative or stigmatizing information that could inhibit future employment.

Following the City's decision to dismiss or demote an employee, including a probationary employee, the employee shall be afforded an opportunity for a name-clearing hearing. The employee must request the hearing within a time frame established by the City. If requested by the employee, a time and date for the hearing will be established such that the hearing takes place prior to the release of any negative or stigmatizing information about the employee that could inhibit future employment. The employee may invite anyone the employee wishes (including the media) to the hearing. At this name-clearing hearing, the employee may present any response to information that the employee believes to be false and/or stigmatizing to the employee's reputation with respect to his or her work performance or the reasons for the dismissal or demotion.

At the employee's request, any written comments submitted by the demoted or dismissed employee will be placed in the employee's personnel file, and, if requested by the employee, a copy will be provided to anyone who requests the termination letter on that employee. In lieu of actually attending the hearing, the employee may submit written comments and they will be placed in the file just as if the employee had presented them at the scheduled hearing. If the employee speaks at the hearing but does not provide written comments, the person conducting the hearing shall take notes and place a copy of the notes in the employee's personnel file, and a copy will be provided to anyone who requests

the termination letter on that employee. There is no requirement for the City or the hearing officer to respond in any way to the comments of the demoted or dismissed employee at the hearing. The name clearing hearing is not a substitute for, or a second opportunity for, a pre-termination hearing at which the employee may contest the proposed disciplinary action.

## **ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL**

### **Section 1. Policy**

It is the policy of the City to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair. The Human Resources Director will be available to assist all parties with the procedures during the grievance process.

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

### **Section 2. Grievance Defined**

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

### **Section 3. Purposes of the Grievance Procedure**

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

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

### **Section 4. Grievance Procedure**

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

**Informal Resolution.** Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective department director or the Human Resources Director as a resource to help resolve the grievance.

In some instances, if both parties agree, and with the approval of the City Manager, the parties may request mediation. Mediation is the use of a neutral party agreed upon by all parties to the conflict to facilitate the parties in seeking win/win outcomes and identifying mutually agreeable solutions or understandings, thus preserving, or enhancing the relationships between employees and supervisors. Mediation differs from arbitration in that no solution is mandated. Mediators may be any party who is perceived as neutral and who has facilitation and/or conflict resolution skills. Mediation may be used at any step in the process. The deadlines contained in this section are intended to be used as guidelines.

**Step 1.** If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor in writing. The grievance must be presented within fifteen calendar days of the event or within fifteen calendar days of learning of the event or condition. The supervisor shall generally respond to the grievance within fifteen calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the City in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to fully cooperate.

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

**Step 2.** If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal, in writing, to the appropriate department director within ten calendar days after receipt of the response from Step 1. The department director shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal.

**Step 3.** If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the City Manager within ten calendar days after receipt of the response from Step 3. The City Manager may, at his/her discretion, schedule a formal or informal grievance hearing to consider the issue(s) presented or schedule mediation. The City Manager shall respond to the appeal, stating the determination of decision in a timely manner, generally within ten calendar days after receipt of the appeal. The City Manager's decision shall be the final decision. The City Manager will notify the City Board of any impending legal action.

**Department Directors.** In the case of department directors or other employees where the City Manager has been significantly involved in determining disciplinary action, including dismissal, the City

may wish to obtain a neutral outside party to either:

- a) provide mediation between the grieving department director and the City Manager (see definition of mediation in “informal resolution” above); or
- b) consider an appeal and make recommendations to the City Manager concerning the appeal. Such parties might consist of human resource professionals, attorneys trained in mediation, mediators, or other parties appropriate to the situation.

The City Manager’s decision shall be the final decision. The City Manager will notify the City Board of any impending legal action.

### **Section 5. Role of the Human Resources Director**

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

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

The Human Resources Director shall also determine whether additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed.

If the Human Resources Director has direct involvement with the situation surrounding the grievance in a manner that diminishes perceived neutrality, the City Manager or another person appointed by the City Manager may assume the role described in this section.

### **Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination**

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on an individual’s race, religion, color, sex, national origin, sexual orientation, age, veteran status, marital status, political affiliation, non-disqualifying disability, genetic information, or on the basis of actual or perceived gender as expressed through dress, appearance or behavior), he or she has the right to appeal such action using the grievance procedure outlined in this Article. While such persons are encouraged to use the grievance procedure, they shall also have the right to go directly to the Human Resources Director or to appeal directly to the City Manager.

Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal against an alleged act of discrimination within thirty calendar days

of the alleged discriminatory action.

## **ARTICLE XI. RECORDS AND REPORTS**

### **Section 1. Public Information**

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

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

Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the City may adopt. An individual examining a personnel record may copy the information. The cost of photocopying may be assessed to the individual who requests the copies.

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

A record will be maintained of all disclosures of personnel records, except for authorized personnel processing personnel actions or supervisors in the line of authority of the employee. Upon request the records of disclosure will be made available to the employee to whom it pertains.

### **Section 2. Access to Confidential Records**

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

- a) the employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical

disability, mental or physical, that a prudent physician would not divulge to the patient;

- b) a licensed physician designated in writing by the employee may examine the employee's medical record;
- c) a City employee having supervisory authority over the employee may examine all material in the employee's personnel file;
- d) by order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file;
- e) an official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the City Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation;
- f) an employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release;
- g) the City Manager, with the concurrence of the City Board, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a City employee, and the reasons for that action. Before releasing that information, the City Manager shall determine in writing that the release is essential to maintaining the level and quality of City services. The written determination shall be retained in the City Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.

The City Board shall establish procedures for all personnel files containing information other than the public information mentioned above whereby an employee who objects to the material may place in the file a statement relating to the material.

### **Section 3. Personnel Actions**

The Human Resources Director, with the approval of the City Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. There shall be one set of official personnel files, centrally located as designated by the City Manager, normally in the Human Resources Office. Any document not located there is not an official part of that employee's personnel record. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement, letters of recommendation, and other personnel-related documents.



#### **Section 4. Records of Former Employees**

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

#### **Section 5. Remedies of Employees Objecting to Material in File**

An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. In accordance with established grievance procedures, the employee may seek to have a record of upheld grievances relating to personnel records placed in the file and/or may seek removal of material in the file contingent upon approval of the North Carolina Department of Cultural Resources.

#### **Section 6. Penalties for Permitting Access to Confidential Records**

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

#### **Section 7. Examining and/or Copying Confidential Material without Authorization**

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

#### **Section 8. Destruction of Records Regulated**

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with NC General Statute section 121.5, without the consent of the North Carolina Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates, or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in NC General Statute section 132.3.

## **ARTICLE XII. IMPLEMENTATION OF POLICIES**

### **Section 1. Conflicting Policies Repealed**

All policies or resolutions that conflict with the provisions of these policies are hereby repealed.

### **Section 2. Separability**

If any provision of these policies or any rule, regulation, or order hereunder of the application of such provision to any person or circumstances is held invalid, the remainder of these policies and the application of such remaining provisions of these policies of such rules, regulations, or orders to persons or circumstances other than those held invalid will not be affected thereby.

### **Section 3. Amendments**

This policy may be amended by action of the City Board and by resolution appropriately approved. Any revisions or amendments adopted in conformance with this procedure shall become effective as of the date of such adoption.

Notice of any amendment to the policy or any portion thereof, shall be provided to employees. Adopted amendments should be posted on City websites, bulletin boards in employee work locations, and/or in employee newsletters.