

CITY OF ELIZABETH CITY, NORTH CAROLINA

PERSONNEL POLICIES

I. THE PERSONNEL SYSTEM

1.1 **Applicability.** The provisions of this Personnel Policy pertain to all full-time and part-time employees of the City. Employees exempt from all provisions contained in the Personnel Policy include:

- a. members of the City Council;
- b. members of boards and commissions;
- c. volunteer personnel and personnel appointed to serve without pay;
- d. consultants and retained counsel rendering professional service;
and
- e. contractual employees.

2.0 **Purpose.** The City Council has approved these policies by resolution and intends that they be used as a general guide only. Neither it, City practices, nor other communications create an employment contract or term. It does not contain all of the information employees need during the course of employment. Employees will receive information through various notices as well as orally.

The City of Elizabeth City is committed to reviewing its personnel policies and employee benefits program continually. Accordingly, these policies and benefits are subject to review and change. No communication or practice limits the reasons or procedures for termination or modification of the employment relationship.

3.1 **Merit Principles.** The City of Elizabeth City embraces the following principles in administering its personnel program such as:

- Applicants and employees shall be assured of fair treatment in all aspects of personnel administration without regard to race, color, religious creed, sex, sexual orientation, national origin or ancestry, age, handicapped status, or any other non-merit factor, except where sex or physical requirements constitute a bone fide occupational qualification necessary to proper and effective functioning in the job. All employment decisions shall be based on job-related factors.

- Employees shall be recruited, selected, trained and advanced on the basis of their relative ability, knowledge, and skill.
- Employees shall receive equitable and adequate pay and benefits. Eligible employees shall receive merit pay increases based on the quality of their performance, subject to the availability of funds.
- Employees shall be protected against coercion for political purposes.

4.0 **The City Manager.** As the chief executive officer, the City Manager is the head of the administrative branch of the City government and he/she is directly responsible to the City Council for the administration of the affairs of the City. The City Manager is the final authority for directing the activities of all City employees. Therefore, the City Manager shall establish personnel policies, rules and procedures as necessary to effectively accomplish the mission of the City which are not in conflict with the City Charter or Ordinances, or with Federal or State law.

5.0 **Personnel Records.** The City Manager shall establish, or cause to be established, a system of maintaining official personnel records for employees of the City.

In accordance with North Carolina General Statutes, certain personnel information shall be considered public record and as such shall be open for public inspection during regular City Hall business hours.

All other information contained in an employee's personnel file is confidential and shall not be open to inspection except as specifically provided by North Carolina General Statutes.

A separate file shall be established for each employee's medical record. Employees' medical records shall be available to City employees with a specific need to inspect the files. Inspection of an employee's medical file shall be in accordance with Federal and State Statutes.

An employee who objects to material in his/her personnel file on the grounds that it is inaccurate or misleading, may place in the file a statement relating to the questionable material; or, the employee may seek to have the material removed from his/her personnel file by following the grievance procedure, if not already done. Any request for the removal of information from the employee's personnel file must be made within 1 year from the placement of the information or document in issue.

6.0 **At Will Nature of Employment.** All employment with the City is based on mutual consent. This means that any employee may be terminated at any time, for any reason or without cause. No representation by any employee nor any policy or procedure can change this status. Only employees who have a written contract, approved and signed by City Council can be exempt from this status.

II. RECRUITMENT AND APPOINTMENT

- 1.0 **Recruiting and Appointing Procedures.** The recruitment, selection, appointment and promotion of employees shall be in accordance with the City's policy regarding equal employment opportunity and applicable law prohibiting discrimination in employment.

Department directors shall be responsible for notifying the Human Resources Department of vacant, or soon to be vacant, authorized positions in their department. The notification shall include the class title and salary grade.

As far as practical, vacancies shall be filled by promotion of employees of the City of Elizabeth City. However, all positions shall be filled by the most qualified applicant regardless of employment status with the City. All vacancies shall be announced to City employees. A vacancy shall be posted for at least three (3) work days in a specified location for each department, unless the City Manager makes a decision to the contrary.

All vacant positions shall be publicized by posting announcements and by other means as necessary to assure qualified candidates and equal employment opportunity. Every reasonable effort shall be made to publicize vacancies so that all interested persons are informed and qualified people are attracted to apply. Vacant positions may be advertised outside City employment when deemed by the City Manager to be in the best interests of the City of Elizabeth City.

It is the City's nepotism policy that a person is ineligible for hire in the same department where a relative is employed by the City. Relative shall be defined as: spouse, mother, father, guardian, child, sister, brother, grandparents, grandchild plus the various combinations of half, step, in-law, and adopted relationship that can be derived from those named. If two (2) employees marry during the course of their employment they may be allowed to continue working in the same department but not in the same departmental location or on the same shift, and there can be no supervisory relationship, whatsoever, between the two (2). Any other relationships (aunts, uncles) must be with the approval of the City Manager.

Individuals shall be recruited, screened, appointed and promoted on the basis of job related experience, skills, knowledge, education, training, abilities, the quality of past performance, and on the basis of the candidate's general suitability to perform the required work. A candidate for employment will be required to take a drug test and undergo a pre-employment physical examination, or any other job related test, depending upon the physical demands of the position to be filled. Individuals with disabilities shall be given all consideration required under the Americans with Disabilities Act. The City Manager shall have final hiring authority in ruling on employment recommendations made by department heads.

- 2.0 **Physical Examination.** Each job applicant must undergo a complete physical examination and drug test by a doctor approved by the City before he/she shall be hired as

a new employee. The cost of the examination is paid by the City. A report of the results of the physical examination and drug test shall be submitted to the Human Resources Department before hiring an employee.

Each employee must also provide the City of Elizabeth City with a criminal records check and a driving records check paid for by the employee.

A physical examination and drug test shall be required after a job offer has been made. The job offer is contingent upon successfully passing the physical examination and drug test. An employee may be disqualified from employment because (1) the employee is unable to perform the essential functions of their job with or without a reasonable accommodation, (2) because of a reason(s) constituting business necessity or because the individual will constitute a direct threat to the health and safety of the employee, other co-workers, or the general public.

- 3.0 **Residence Requirements and Recruiting Area.** Candidates for employment shall be recruited from a geographic area as wide as necessary to assure obtaining qualified applicants. Appointments may not necessarily be limited to residents of Elizabeth City.

If residents and non-residents are equally qualified, the local resident will receive first consideration.

- 4.0 **Probationary Period.** A new employee shall serve a probationary period of at least six (6) months. The probationary period provides the appointee with an opportunity to adjust to the new job. It also serves as a time during which a new employee's ability to perform the work, to accept additional responsibility, to develop a desirable attitude, and to work well with the public and fellow employees will be closely evaluated. The probationary period for a police officer is twelve(12) months, which is a requirement mandated by the Criminal Justice Training Standards Commission.

The probationary period may be extended, at the discretion of the supervisor, for an additional specified period of up to six (6) additional months. Upon successful completion of the probationary period, a newly hired employee is eligible to be considered for a 2% pay increase and to receive the use of accumulated vacation and sick leave. Waiver of all or part of the probationary period and/or with starting salary about the starting salary of the assigned pay grade is subject to prior approval by the City Manager.

- 5.0 **Part-Time and Temporary Employment.** Part-time positions are defined as positions whose average work week is at least twenty (20) hours per week, but less than forty (40) hours per week. Temporary positions are defined as those who work an average work week of less than twenty (20) hours per week or less than one year in duration.

Part-time and temporary employees may be hired and paid, subject to the availability of funds, at a rate that is competitive with the local labor market upon approval of the City Manager.

- 6.0 **Full-Time Regular Employment.** Full-time regular positions are defined as a regular position whose average work week is at least forty (40) hours per week.

All positions are subject to budget review and approval each year by the City Council, and all employees' work and conduct must meet standards of performance and behavior. Therefore, reference to regular positions or employment should not be construed as a contract or right to perpetual funding or employment.

Certain essential City services must be provided day and night every day of the year. Therefore, depending upon the nature of the service, some employees may be subject to call.

- 7.0 **Criminal Background Checks.** Employment references and criminal records checks may be performed as part of the selection process for employees. Applicants for employment are required to truthfully and accurately provide all information requested as part of the application and interview process. The City will comply with applicable requirements published by the U.S Equal Employment Opportunity Commission regarding the use of information concerning criminal charges and convictions. Information concerning criminal convictions will be used in making individualized employment decisions only after considering (1) the nature and gravity of the offense; (2) the time that has passed since the conviction and/or the completion of the sentence; and (3) the nature of the job held or sought.

III. CLASSIFICATION AND PAY

- 1.0 **The Position Classification Plan.** A class specification of each full-time regular position specifies the job title, definition, examples of work, required knowledge and skills, and desired experience and training. City employees may review their class specification to promote an understanding of the requirements and responsibilities of the position to which they are assigned. Likewise, the qualifications of individual job applicants may be measured in relation to the class specifications included in the Position Classification Plan. No class specification shall be interpreted to include all details of a job, and all class specifications shall be interpreted to require the performance of additional related duties as assigned.
- 2.0 **Reclassification.** A department head shall notify the City Manager about changes in assigned duties and responsibilities that significantly alter the relative importance and difficulty of positions within a class. The department head shall initiate a request for classification change by completing and submitting a "Position Review Request". Such requests for revision to the Position Classification Plan are subject to review, and evaluation by the City Manager.
- 3.0 **The Pay Plan.** The Pay Plan is a required companion to the Position Classification Plan. Each position title is assigned to an appropriate salary grade which has a minimum and a maximum rate. In absence of any special exception authorized by the City Manager, an employee's pay shall begin at the minimum range of the pay scale and upon successful

completion of an initial probationary period of employment the employees salary will increase by 2%. Pay increases beyond this represent potential merit increases subject to annual consideration. Under no circumstances is the advancement in pay considered to be automatic or guaranteed.

In conjunction with the preparation of the City Manager's annual budget recommendations, the Pay Plan may include an evaluation by reviewing economic indicators and levels of salaries and benefits that prevail in area business, industry, and in other municipalities.

Information revealed by such reviews can form the bases for the City Manager recommending overall adjustments deemed necessary to maintain a Pay Plan that is current and competitive.

- 4.0 **Pay Day.** Bi-weekly pay periods are provided for all paid employees. In the event that a regular payday falls on a holiday, paychecks shall be issued on the workday that precedes the holiday. Employees should examine paystubs for correctness and must promptly report any inaccuracy or error in pay. Adjustments will be made in the following pay period. Explanations of the payroll deductions shall be made upon request.
- 5.0 **Starting Salaries.** Qualified persons hired to fill positions covered by the Pay Plan shall begin work at the minimum rate of the salary grade to which the classification is assigned, except that exceptionally well qualified applicants may be hired at a salary above the minimum if recommended by the department head and approved by the City Manager.
- 6.0— **Overtime Compensation.** The City shall comply with all applicable provisions of the Fair Labor Standards Act. For overtime pay purposes, the City classifies employees into two separate groups: exempt and nonexempt. Exempt employees shall not receive overtime compensation. Nonexempt employees shall be paid for overtime worked. No employee shall work overtime except as authorized by the City Manager or his/her designee. An employee who works beyond their scheduled hours without their supervisor's approval is subject to disciplinary action. Directions from a supervisor not to work beyond or outside of the employee's usual schedule is to be treated like any other work direction, and violation of such a direction shall be considered insubordination.

The City Manager or his/her designee, following Fair Labor Standards Act regulations, shall determine which positions are nonexempt and entitled to overtime compensation under the Fair Labor Standards Act.

Nonexempt employees shall be paid at their straight time rate for hours worked in accordance with the requirements of the Fair Labor Standards Act and then shall receive overtime compensation at the rate of 1.5 times their applicable hourly rate, as follows:

Law enforcement personnel shall be paid overtime compensation when they work more than 86 hours in an established 14 day period work period.

Fire protection personnel, including firefighters, paramedics, emergency medical technicians, rescue workers, etc., shall be paid overtime compensation whenever they work more than 212 hours in an established 28 day work period.

All other employees shall be paid overtime compensation whenever they actually work more than 40 hours in an established 7 day work period.

Overtime compensation for all non-exempt employees shall be paid at the appropriate overtime rate in accordance with the Fair Labor Standards Act. In determining the number of hours actually worked for overtime eligibility and calculations, only hours actually worked will be included. Therefore, stand by pay, holiday pay, vacation pay, or any other payment that is not based on hours actually worked will not be included.

- 7.0 **Standby Pay.** Nonexempt essential service employees will be scheduled to be on standby for seven (7) consecutive days. While on standby, employees are required to report to work when called. Employees on standby status shall be credited with six (6) hours of work time at the overtime rate while on standby. The standby pay is intended to compensate the employee for any inconvenience they experience by remaining available to report to work. Pay for any work performed while on standby will be in addition to the standby pay.
- 8.0 **Call-Back Pay.** Nonexempt employees required to return to work after the end of their normal working hours shall be credited with a minimum of two (2) hours of work time which will be included as hours worked for purposes of calculating overtime eligibility under the Fair Labor Standards Act. Call back pay is not given for time worked by an employee after their shift ends, but only in those situations where an employee is called back to work after they have finished their shift and left the workplace.

Law enforcement employees required to attend court during non-duty hours shall be credited with a minimum of two (2) hours of work time. These two (2) hours of work time will be paid at the overtime rate; if the two (2) hours worked are in excess of the Fair Labor Standards Act limit established by the city for law enforcement officers.

If the employee is called back more than once within a two (2) hour period, the employee will receive only a two (2) hour maximum of overtime.

IV. LEAVE PROVISIONS

- 1.0 **Holidays.** Holidays, as approved by the City Council, will be observed according to the State of North Carolina designated holiday schedule.

Employees in the Police Department, Fire Department and the Water and Wastewater Treatment Plants who are in positions that must be staffed seven days per week without regard to holidays or weekends will be compensated for all City observed holidays for the calendar year with a lump sum payment between December 1st and December 25th. The scheduling of the leave is subject to approval by the department head and the leave shall

be taken within sixty (60) days after the holiday for which it is granted. No holiday pay shall be given in advance of the holiday occurring.

For pay purposes, a holiday is defined as 8 hours for an employees that work a 40 hour week, 10 hours for employees assigned to work 50 hour week and 11.2 hours for employees assigned to 56 hour per week position.

- 2.0 **Vacation Leave.** Vacation leave shall accumulate to the credit of each full-time regular employee as follows:

Length of Service	Hours of Leave Accumulation	
	<u>Per Month</u>	<u>Per Year</u>

40 Hour Employees

0 - 5 years	6.667 hours	80 hours
5.1 - 10 years	8 hours	96 hours
10.1 - 15 years	10 hours	120 hours
15.1 - 20 years	12 hours	144 hours
20.1 - 25 years	13.333	160 hours
25.1 years or longer	16.667 hours	200 hours

56 Hour Employees

0 - 5 years	9.333 hours	112 hours
5.1 - 10 years	11.250 hours	135 hours
10.1 - 15 years	14 hours	168 hours
15.1 - 20 years	16.833 hours	202 hours
20.1 - 25 years	18.667 hours	224 hours
25.1 years or longer	23.333 hours	280 hours

The maximum vacation leave that may accumulate to an employee's credit is limited to 240 hours for employees working an 8 hour schedule and 336 hours for employees on a 56 hour schedule. All vacation hours in excess of 240 or 336 can be converted to sick leave at the end of the last pay period of each calendar year. Employees who are hired or separated from employment with the City who are employed for fifteen (15) calendar days or more in a calendar month shall accumulate vacation for that month. Those employees who work less than fifteen (15) calendar days during a calendar month shall not accumulate vacation leave for that month. A new employee shall be employed for and accumulate vacation leave for six (6) months before he/she is eligible to take paid vacation. An employee continues to accumulate vacation leave while on authorized vacation and sick leave.

An employee shall not work for the City at the same time that he/she is on authorized leave, nor is an employee authorized to use vacation leave that is accumulated by another employee, unless the Shared Leave Policy has been approved by the City Manager for the employee.

Vacation may be taken as earned when mutually convenient for the City and the employee. Therefore, vacation scheduling is subject to approval by the department head or the City Manager. Vacation leave may be used for sickness in the event that accumulated sick leave is exhausted.

- 3.1 **Sick Leave.** Sick leave is defined as time off with pay granted for an employee's personal sickness, illness or injury. Sick leave with pay is accumulated at the rate of one day for each month of employment. For pay purposes, a sick leave day is equal to a regular 8 hour work day. For employees assigned to work an average of 56 hours of duty per week, a sick leave day is equal to 11.2 hours. Sick leave is a benefit granted to the employee in the event of an employee's personal sickness, illness, or injury that occurs on or off the job, or for scheduled doctor's appointments, up to three (3) days per year of accumulated sick leave can be used to care for ill or injured immediate family members; five (5) days after the death of a spouse. The term "immediate family" is defined as including spouse, parent, spouse's parent, child, brother, sister, grandparent, grandchild, or any "step-" related in these categories, or legal guardian.

Persons who are hired or separated from employment with the City who are employed for fifteen (15) calendar days or more in a calendar month shall earn sick leave for that month. Employees who are employed for less than fifteen (15) calendar days during a calendar month shall not earn sick leave for that month. An employee continues to accumulate sick leave while on authorized vacation and sick leave.

When personal illness extends beyond accumulated sick leave, a charge will be made against vacation leave. When vacation leave is exhausted, the employee will be placed on leave without pay. Sick leave is a privilege that is not to be abused and it shall be granted with pay only when the employee adheres to the following:

- (a) Calls his/her supervisor to give as much advance notice of illness as possible;

(b) Tells the supervisor the nature and expected duration of the illness; and

(c) Keeps the supervisor informed of the status of the illness.

If an employee is out sick for three (3) consecutive shifts, he/she must bring a written statement from a licensed physician, the State Health Department or hospital to the supervisor stating the nature of the illness and the date he/she expects to return to work. If an employee fails to show up to work and fails to speak directly to his/her supervisor regarding the absence, after three (3) consecutive shifts, he/she has forfeited his/her job with the city. An employee shall not work at the same time that he/she is on paid sick leave.

An employee who is eligible for retirement who remains absent from work for more than 12 weeks because of illness or disability may be required to file an application for disability, early or service retirement, or show evidence to the satisfaction of the City Manager that his/her disability is not permanent.

4.1 **Family and Medical Leave.** The City shall comply with the requirements of the Family and Medical Leave Act (“FMLA”). All employees who have been employed with the City of Elizabeth City for at least 12 months and for at least 1,250 hours during the 12 months immediately prior to the desired leave time may, upon request and subject to the conditions specified below, receive up to 12 weeks of FMLA leave during any 12 month period for the following purposes:

- care of a newborn or newly adopted child;
- care of a child, parent, or spouse with a serious health condition; or
- the employee's own serious health condition which renders him/her unable to perform the functions of his/her position-

An employee whose spouse, son, daughter, parent or next of kin is a covered service member is eligible for up to 26 weeks of leave during a 12-month period to care for such covered service member, commencing on the date the employee first takes leave.

The 12 month period will be considered to be a rolling period for each employee measured from the first day of the employee's last FMLA leave. Employees who qualify for this leave must first utilize all accumulated paid leave -- such as unused accumulated sick days (if the leave is for an employee's health condition) and vacation time -- as the initial portion of the 12-week period, the remaining balance of the 12 weeks to consist of unpaid leave. If the leave is taken as a result of a serious health condition, the request must be supported by certification from the health care provider of the employee or other ill person to be cared for. If leave is taken as a result of such a qualifying serious health

condition, the leave may be taken intermittently in periods totaling up to 12 weeks, as long as intermittent leave is medically required and approved in medical certification. If the leave is taken as a result of the employee's serious health condition, the City will require that the employee provide a health care provider's certification that the employee is fit to return to work.

The City reserves the right to require a second or third opinion from a healthcare provider of the City's choice and at the City's expense in the event that the City reasonably questions the certification of a serious health condition provided by the employee.

While the employee is on leave for these purposes, he/she will not lose any employment benefit accumulated prior to the date the leave period begins. During the leave period, the employee will not accumulate additional seniority or benefits. Group health insurance coverage will be maintained during the leave period at the level and under the conditions coverage would have been provided if the employee had continued in active employment. In other words, the employee must continue to pay his/her share (if any) of the insurance premiums that are being paid by payroll deduction. The payment options for employees are: payment of premiums in advance, payment of premiums on a monthly basis, or total premiums due for leave period will be deducted from the first paycheck upon returning to work. If election to pay on a monthly basis is made, payment arrangements must be made with the Finance Department. If payments are not received on a timely basis, such coverage(s) may be canceled. If the City has paid for any portion of the employee's or employee's dependents' health insurance during this leave period and if the employee fails to return from leave for a reason other than a continued serious health condition certified by a health care provider or other circumstances beyond the employee's control, the City may recover the amount of premiums paid for maintaining coverage during the leave period. Although it may be the employee's responsibility to pay temporary disability and life premiums while on leave without pay, in some instances, the City will pay those premiums. However, the premiums will be reimbursed to the City from the first paycheck upon return to work. Return to work is defined as a minimum of thirty (30) days.

Employees who qualify for leave under this policy and who provide the required certification of fitness to return to work will be restored upon return to their former position or to an equivalent position with equivalent pay and benefits. This may not apply to "Key Personnel" as defined under Section 825.217 of the FMLA.

Employees are required to give at least 30 days advance notice through their department head to the Personnel office when a leave will be required under any of the circumstances described above, except when the reasons for the leave are not foreseeable, in which case employees must give as much advance notice as possible. Employees will be required to report to their supervisors of the status of the leave, any change in the anticipated date of return, and any change in employee's plans to return to work. Any failure by employee to provide the required notice or to check in as required may result in refusal to provide the employee with leave or termination of leave.

When an employee requests leave under the Family and Medical Leave Act (FMLA), a specific notice will be provided to the employee to describe any and all requirements to be followed by the employee for each specific leave. Any employee who has extended sick leave beyond seven (7) consecutive days will be placed on FMLA. Questions regarding this leave should be directed to the Human Resources' office.

The FMLA has no impact on leave for other reasons, such as jury leave or military service leave. If there is a conflict in this policy and the FMLA, the FMLA will take precedence on matters that fall under the provisions of the FMLA.

5.0 Worker's Compensation. City employees are covered by the North Carolina Worker's Compensation Act. All employees are required to report all injuries arising out of and in the course of employment to his/her supervisor within the work day of occurrence. Employees absent from duty because of disability covered by the North Carolina Worker's Compensation Act will receive Worker's Compensation benefits at the rate of two-thirds (2/3) of his/her regular pay. The injured employee may elect to use accumulated vacation and sick leave up to 1/3 of their salary to supplement Worker's Compensation benefits. Medical costs resulting from an on-the-job accident shall be paid according to the provision of the Worker's Compensation Act. Health insurance coverage for employees on Worker's Compensation will be paid by the City for six (6) months, afterwards, the employee has the option of remaining on the City's insurance at cost, unless otherwise authorized by the City Manager.

Light Duty: If an employee is injured on the job and the Workers' Compensation claim is approved by the City's Workers' Compensation Insurance Carrier, such employee may be considered for light duty upon the doctor's approval. An employee on light duty must be able to return to work in full duty within 60 days of starting their light duty assignment.

6.0 Civil Leave. A City employee called for jury duty or as a witness in a civil or criminal legal proceeding shall receive civil leave with pay for such duty during the required absence without charge to accumulated vacation or sick leave. An employee shall not be required to pay to the City any fees or travel allowances received for jury or witness duty.

7.0 Military Leave. Employees will be eligible for all considerations of military leave in accordance with the federal Veterans' Reemployment Rights Act ("VRRRA") and the Uniform Services Employment & Reemployment & Readjustment Act ("USERRA"). An employee who is a member of an Armed Forces Reserve organization or the National Guard shall be paid a maximum of 80 hours or 112 hours (Fire Department shift personnel) per calendar year for required military training. While on military leave, benefits shall accumulate as though present for duty. Military leave shall not be charged against annual leave. When an employee reapplies following separation from military service, his or her reemployment will be governed by the VRRRA and USERRA.

9.1 Leave Without Pay. A City employee may be granted a leave of absence without pay for up to ninety (90) calendar days by the City Manager upon the recommendation of the

department head for reasons of personal or family illness, completion of education, or special work which will permit the City to benefit by the experience gained or the work performed. Leave without pay is also used to allow an employee to maintain interest in the retirement system, group life insurance and health insurance coverage. However, leave without pay is available only if it is firmly established that the employee intends to return to the position from which he/she has taken leave. Leave without pay may be used for:

- (1) Military leave in excess of 80 or 112 (Fire Department shift personnel) hours;
- (2) Family Leave - after all paid leave has been exhausted;
- (3) Leave for sickness - after all paid leave has been exhausted;
- (4) Educational leave; and
- (5) Other temporary absences approved by the City Manager.

Authorized leave without pay may be continued at up to three (3) month intervals up to a year, subject to the approval of the City Manager. In the absence of an extension of leave without pay, the employee's services shall be terminated.

If on leave without pay for more than fifteen (15) calendar days in a month, an employee shall not accumulate sick leave or vacation leave for that month.

V. PERSONNEL ACTIONS

- 1.0 **Probationary Pay Increases.** A pay increase is considered for all City employees after a six (6) month probationary period except for Police Officers who may receive benefits after a successful six (6) months but must remain on one (1) year probationary period based on the Criminal Justice Training Standards.
- 2.0 **Merit Pay Increase.** Merit pay increases are not guaranteed and shall not be awarded automatically. When an employee's productivity, attitude, attendance, or work quality needs to be improved, the department head shall deny a merit increase and the employee shall be told in what way improvement needs to be made. An employee's performance shall normally be reviewed once annually for merit purposes until the salary has advanced to the top range on the assigned salary grade.
- 3.0 **Promotion.** A promotion is defined as a move from one position class to another that is assigned a higher salary grade and that results in a pay increase.

It shall be the policy of the City to give first consideration to promoting persons already employed by the City in seeking qualified applicants to fill vacant positions. In the

absence of qualified candidates for promotion, vacancies will be filled by recruiting sources from outside employment.

Employees shall be considered for promotion on the basis of job-related experience, skill, knowledge and ability, and upon a review of the quality of past performance and general suitability for the higher level position. Political preference, religious creed, age, sex, sexual orientation, race, handicapped status, national origin or ancestry and citizenship are not job-related qualifications and shall not influence selection for promotion. The city does not discriminate on the basis of disability against a QID (qualified individual with a disability) and ensures that promotion decisions are based on merit.

When the promotional qualifications of two (2) or more employees are judged to be equal, the employee with the longest service with the City shall be promoted. However, an employee is normally expected to have served at least one year or more in his/her current position before being considered for promotion or testing for promotional examinations. A department head's recommendation to promote an employee shall be reviewed and approved by the City Manager prior to making the promotion.

Interim Supervisory Promotions: To promote uniformity in the treatment of employees who are appointed to interim supervisory positions, such employees will shall be paid as follows:

When an employee is appointed to an interim supervisory position, the employee shall receive a temporary four percent (4%) increase over his/her current pay for up to a maximum of three (3) months. In the event an interim appointment lasts longer than three (3) months, the employee shall receive the minimum pay schedule for the position being filled for the amount of time over three (3) calendar months the employee fills the interim position; provided that any such employee whose current salary already falls within the salary range of the supervisory position to which the employee has been appointed in the interim shall continue to receive only the temporary four percent (4%) increase provided during the first three (3) calendar months of the interim appointment. If the temporary four percent (4%) increase takes the appointed employee's salary past the minimum pay scheduled for the supervisory position in question, said employee will continue to earn at the temporary four percent (4%) increase already enacted until the interim supervisory position ends.

Interim supervisory appointments shall only occur when the supervisory position has been designated "vacant" by the Human Resources Department, and only after approval of the appointment by the City Manager. Such interim supervisory appointments shall only be made after the City Manager, in consultation with the department head over the position, determines that the interim appointment is necessary for the effective operation of the department in question for the interim period of time.

- 4.0 **Transfer.** A transfer is defined as a lateral movement from one department, division or designated work unit to another without change in position, classification or salary grade. It is the policy of the City to transfer employees temporarily or permanently from one

department, division or work unit to another when doing so will serve the City's best interest. This policy is intended to provide maximum utilization of staff during unanticipated emergency situations, during peak workloads; to shift employees to areas where they are needed most; and to ensure acceptable relationships and behavior in the city's workforce. A transfer to an authorized vacancy may also be arranged upon mutual agreement of all interested administrative officials including the City Manager.

5.1 **Demotion.** A demotion is defined as a move from one position class to another which is assigned to a lower salary grade. The salary after demotion shall be determined by the City Manager based upon the circumstances of the demotion. While it is not a common practice, the City may find it appropriate to demote an employee as a result of unusual circumstances such as:

- (a) when an employee becomes partially disabled yet is able to perform work in a lower level position with less stringent physical demands that do not jeopardize his/her safety or welfare or that of others, if such a position is available and the employee meets the qualifications for the position;
- (b) when an employee becomes disabled and is unable to perform the essential functions of the employee's job, or constitutes a direct threat to the employee's own health and safety or that of others;
- (c) when an employee is not satisfied with, or is not able to meet the requirements of the position;
- (d) when a demotion is determined to be an appropriate disciplinary action; or
- (e) when such a transfer is necessary, to ensure efficiency of the City's operations.

Should an employee be moved from one position to another without experiencing a reduction in pay, that shall not be considered a demotion.

6.0 **Resignation.** Resignation is defined as a action taken by an employee to terminate their employment. A department head should give to their supervisor written notice as soon as possible, but not less than thirty (30) calendar days in advance of the effective date. All other employees should give a written notice of intent to resign no less than fourteen (14) calendar days prior to the effective resignation date.

7.0 **Suspension.** Suspension is defined as an action taken by the City whereby the employee's pay is discontinued while he/she is temporarily relieved of all duties and responsibilities with the City. Suspension may be imposed to allow time for investigation and hearing relative to allegations of wrong doing.

Should a decision be made not to impose disciplinary action against a suspended employee, City Manager may, in his discretion, reinstate the employee without loss of pay or benefits. Suspension shall also be used as a disciplinary action for misconduct, insubordination or to correct poor work habits. The duration of a disciplinary suspension

shall vary with the seriousness of the offense.

- 8.0 **Dismissal.** Dismissal is a disciplinary action taken by the City whereby the offending employee is immediately relieved of all duties and responsibilities and discharged from the employment of the City.
- 9.0 **Layoff.** Layoff is an involuntary separation from employment because of an organizational change, lack of work, lack of funds or other reason(s) not constituting disciplinary action against the employee. Before an employee is subject to a layoff, the City shall first make every reasonable effort to retain the employee through transfer or to make the necessary work force reduction through normal attrition. When a layoff cannot be avoided, the City shall base the decision on relative quality of performance and give due consideration to seniority in City service when all work related qualifications are equal.
10. **Reinstatement.** Reinstatement is an action taken by the City Manager whereby a former employee returns to employment after having left the service of the City. Reinstatement is only available to those employees who were in good standing at the time their prior separation occurred. "Good standing" shall be defined as not having been on probation, under suspension or any other disciplinary action at the time of their separation. The recommended salary of a reinstated employee shall be within the salary grade that is assigned in the pay plan for the classification to which the former employee is re-employed, except that if a person is reinstated in the same classification held prior to his/her separation, the person shall return to the job at the same pay step that he/she was on prior to his/her separation. An employee who leaves the City and is rehired within six (6) months from the effective date of his/her resignation date shall return with all benefits reactivated and uninterrupted without a probationary waiting period, minus any benefit paid in full (vacation or holiday), if he/she left the City in "good standing". Even if an employee left while in good standing, such reinstatement will only be available if the employee gave proper notice of their termination.
- 11.0 **Overall Pay Plan Adjustment.** From time to time the City Council may adopt an amended Pay Plan to implement an overall pay plan adjustment. When an amended Pay Plan is made effective, the rates of all salary grades and steps are changed in accordance with the adopted amendments. Payroll input forms are required to adjust salaries that result from an overall pay plan change.
- 12.0 **Classification Change.** If significant changes are made in the duties and responsibilities of a position, and the City Council has approved reclassification to a lower salary grade, the salary of employees affected shall remain unchanged. If reclassified to a lower pay range, the employee will not be eligible for pay increases until future overall pay plan adjustments cause the salary grade to exceed the employee's pay. If reclassified is to a higher salary grade, the employee shall receive the minimum pay assigned to the new salary grade, provided the salary of the employee is below the minimum of the salary

grade. If the employee's salary is already above the minimum, a comparable salary will be assigned by the City Manager or his designee.

VI. CONDITIONS OF EMPLOYMENT

1.1 **Responsibility of the Department Head/Supervisor.** A department head/supervisor shall meet his/her responsibilities as directed by the City Manager while being guided by the City Charter, ordinances, administrative policies and program objectives. A department head shall require other supervisors to meet their responsibilities by:

- (a) Informing employees of departmental policy manual;
- (b) Informing employees of the chain of command in the department;
- (c) Dealing with all employees in a fair and equitable manner and upholding the principles of equal employment opportunity;
- (d) Developing and motivating employees to reach their fullest potential through continued education and training;
- (e) Making objective evaluations of individual work performance and discussing work progress or lack of progress with each employee so as to bring about needed improvements;
- (f) Keeping employees informed of their role in accomplishing the work of their work unit and of conditions and changes affecting their work;
- (g) Making every effort to resolve employee problems and grievances and advising employees of their rights and privileges.
- (h) Refrain from fraternizing with subordinates employed by the City.
- (i) Avoiding relationships which distract from the efficient and harmonious operations of the department.

2.1 **Responsibility of the Employee.** An employee of the City shall be expected to:

- (a) Report to work on time and remain on the job until the end of the work day;
- (b) dress neatly and appropriately for interaction with the public; wearing safety equipment as required;
- (c) Perform duties to the best of his/her ability at all times and contribute a full day's work for a full day's pay;
- (d) Work well with other employees and accept additional assignments during peak workloads and emergency situations;

- (e) Request prior approval before taking leave of absence and before leaving the work site;
- (f) Refrain from spreading rumors or engaging in other activities which have a disruptive influence on departmental operations, morale, work progress and productivity; and
- (g) Follow the policies, practices and communications handed down through the chain of command.

3.0 **Attendance.** Because City services are essential and continuous, an employee shall avoid unnecessary absences and tardiness. Attendance and punctuality are important responsibilities of the employee which may influence his/her future eligibility for a merit pay increase or for promotion. The employee shall be required to call his/her supervisor in advance prior to their scheduled work period and advise him/her when illness prevents reporting to work, or when the employee expects to be late for work because of unusual and unavoidable circumstances. If the employee fails to show up to work and fails to speak directly to his/her supervisor after three (3) consecutive shifts, he/she will be terminated for job abandonment.

4.0 **Performance Evaluation.** The City Manager shall develop, or cause to be developed, a system for evaluating the work performance of employee. **Supervisors are expected to give frequent and ongoing feedback regarding employee performance.** The purpose of the employee performance evaluation shall be to inform employees about how well they are performing their work and how they can improve their performance. The performance evaluation may also be used in determining salary increases; suitability for full-time regular employment during an orientation period; as a factor in determining order of lay-off; as a basis for training, promotion, demotion, transfer or dismissal; and for such other purposes as may be deemed in the best interest of the City.

A formal, written performance evaluation shall be completed for each regular employee annually. ~~comprehensive appraisal shall should be completed for each regular employee annually.~~ Informal quarterly performance briefings should also be conducted with each new employee serving as the basis for the annual evaluation. Performance evaluation forms and related information shall be available in the Human Resources Department.

5.0 **Outside Employment.** The City does not dictate what an employee does during time away from the job as long as off-duty activities do not interfere with their work responsibilities to the City, represent a conflict of interest or reflect discredit on the City. An employee is cautioned, however, not to engage in outside activities that are so exhaustive that physical and mental ability are consistently impaired to the extent that his/her City service is adversely affected. No employee shall represent the City in outside employment unless he/she receives express prior approval from the department head.

6.0 **Political Activity.** The City encourages an employee to exercise civic responsibility in supporting good government at all levels by voting for the political candidates and issues of his/her choice.

An employee may join or affiliate with political organizations, may attend political meetings and may advocate and support political principles and policies in accordance with the constitution and laws of the State of North Carolina and of the United States of America.

However, an employee shall not:

- (a) Be required to contribute funds or support for political or partisan purposes as a condition of employment, pay raise, promotion or tenure of office;
- (b) Solicit or act as custodian of funds for political or partisan purposes while on City time;
- (c) Use City-owned supplies, equipment or facilities to display political slogans, posters or stickers or for any other political purpose;
- (d) Be a candidate for, or hold, the office of Mayor or City Council of the City of Elizabeth City.

Any violation of these provisions shall be deemed improper conduct and may result in discharge or other disciplinary action.

7.0 **Solicitations.** Except for the United Way Fund and the Blood Donor Program, solicitations may not take place during working time by employees and at any time by non-City employees.

8.0 **Gifts and Favors.** The conduct of any employee in City service shall be free from influence arising from gifts, favors or special privileges. It is the obligation of an employee to refuse personal gifts, favors or special privileges in situations where it is reasonable to believe that such may be offered so as to affect the giver's interest or otherwise exert influence on the actions of the employee. Furthermore, no employee shall seek personal or financial advantage because of his/her position with the City.

9.1 **Conduct.** An employee is expected to conduct himself/herself properly both on and off the job, so as to reflect credit on the City and on fellow employees.

The following are some examples of unacceptable behavior:

- Reporting for work intoxicated or under the influence of controlled substances;
- Use, possession or solicitation of intoxicants or controlled substances while on the job on City property or using City property;
- Inefficiency, insubordination or refusal to perform assigned duties;
- Dishonesty, theft or falsification of employment application or official City records;

- Engaging in a scheme for personal profit in connection with official duty or City property;
- Conviction of a felony criminal offense;
- Failing to inform their supervisor of any arrests or criminal charges brought against the employee;
- Insufficient regard for safety rules, work rules and regulations.

This list is provided for illustration only. It is not intended to be inclusive or exhaustive. A City employee who is guilty of any unacceptable behavior is subject to disciplinary action up to and including dismissal. Prior to termination of employment, the employee shall be given the opportunity to discuss the termination and the reasons for the termination recommendation with the supervisor and department head.

A department head shall be responsible for counseling employees about problems concerning their work. He/she shall describe the misconduct in a letter to an employee which will also state the proposed disciplinary action to be taken. If the employee feels the disciplinary action is unwarranted, the employee may exercise his/her right to appeal in accordance with the City's grievance procedure.

- 10.0 **Use of City Property and Equipment.** City equipment, materials, tools and supplies shall not be available for personal use nor be removed from City property except in the conduct of official City business.

Employees must care for vehicles and property owned by the City in the same responsible way that he/she would care for his/her own property. Such vehicles and property are to be used exclusively for official City business, except when upon approval of the City Manager, an employee may be permitted to use the vehicle when doing so shall serve the best interest of the City. Employees shall be responsible for loss of or damage to property resulting from their negligence.

- 11.0 **Safety.** Personal safety is the responsibility of all employees. Department heads and supervisors share the responsibility for:

- providing safe work procedures and environment;
- implementing safety policies and programs;
- informing and training employees in safe work habits;
- detecting and correcting unsafe practices and conditions;
- investigating accidents and preparing accident reports;

- and encouraging employees to report unsafe conditions and to submit safety suggestions.

Likewise, each City employee is responsible for:

- developing and maintaining safe work habits;
- promptly reporting all accidents and injuries;
- pointing out dangerous practices and working conditions;
- assisting with investigations of accidents;
- using and taking proper care of safety equipment;
- wearing proper clothing, avoiding loose sleeves, cuffs, rings, bracelets and long hair around moving machinery; and
- knowing the location and use of fire extinguisher, the location of fire exits and the best method for reporting a fire.

Violation of safety and health rules, misuse or disregard of safety devices or equipment will be cause for disciplinary action up to and including dismissal.

All injuries, however minor, must be reported to the supervisor within the work day. The supervisor shall notify the Risk Manager and a determination will be made as to whether any medical treatment will be authorized. In the case of a serious injury such as massive bleeding, unconsciousness, or heart attack the supervisor shall secure immediate medical attention. The department head shall be notified of the injury by the Risk Manager. Failure to report promptly any injury to the supervisor may result in suspension or termination.

Safety materials and equipment shall be used by employees in each department as deemed necessary according to job class and as approved by the City Manager.

The City is required to follow the Occupational Safety and Health Act (OSHA) as of August 1, 1974. Enforcement of OSHA regulations is required and the City will take disciplinary action to assure that all such rules are followed.

VII. GRIEVANCE PROCEDURE

- 1.0 **Purpose.** The grievance procedure is designed to ensure that employees receive fair, impartial and prompt consideration of a problem or dissatisfaction without fear of reprisal. The procedure also encourages employees at all levels to express themselves regarding conditions of work.

The grievance procedure is intended to promote better understanding of policies, practices and procedures; to instill confidence in employees that fair and impartial treatment will be received and develop in supervisors a continuing sense of responsibility for maintaining effective working relationships with subordinate employees.

All employees, including supervisors and department heads, are expected to discuss their problems and misunderstandings with their superiors. Open two-way communication is a proven factor in reducing and resolving grievances.

When an employee (or group of employees) feels the need to resolve a work related problem, dissatisfaction or complaint, the following procedure is available.

2.0 **Definition of Grievance.** A grievance is any dispute concerning the interpretation or application of this personnel policy, or any other policy, practice or procedure affecting working conditions for the City that are not considered matters of management discretion. Many subjects or actions are non-grievable including but not limited to the following: Any condition of employment accepted at the time of employment and/or subsequent change(s) thereto; determining the employee benefit package; determining the proper classification and pay; determining types of training; scheduling and distribution of personnel; determining methods, means, and personnel to carry out operations; relieving employees from work because of lack of work, funds or other valid reasons; hiring, promotion, transfer, non-disciplinary demotion and assignment decisions; performance evaluations and maintaining the efficiency of governmental operations. A grievance might involve alleged safety or health hazards, unfair or discriminatory supervisory practices, misapplication of department work rules, unsatisfactory physical facilities or equipment or other complaints related to conditions of work or disciplinary action. Complaint processes involving issues covered by other parts of this policy are excluded from this procedure.

3.1 **Eligibility.**

Unless otherwise provided by law, all non-probationary full-time City employees are eligible to initiate a grievance under this policy. An employee or person who falls within one of more of the following groups is not eligible to initiate a grievance under this procedure:

- A. Probationary employees – all employees while serving their initial probationary period during any period of extended initial probation.
- B. Employees under disciplinary probation are not eligible to grieve actions taken against them with the exception of a termination action or an offense other than that which resulted in the disciplinary probation.
- C. Promotional/transfer probationary employee – Employee does not have access to the appeal/grievance procedure with the respect to demotion to previously held position (or substantially similar position if original position is available).

- D. Officials appointed by the City Council.
- E. Department Heads, and the equivalent, and Deputy City Manager.
- F. Temporary, limited term and seasonal employees.

The Human Resource Coordinator shall determine the officers and employees excluded from the grievance procedure, and shall be responsible for maintaining an up-to-date list of the affected positions.

4.1 **Procedures.**

A. **PRELIMINARY STEPS.**

1. **Informal Discussion:** Before filing a formal grievance, the —employee (or group of employees) shall discuss the problem with the supervisor up through the chain of command. This assures that the supervisory staff knows about and has had the opportunity to consider and investigate the problem, and to resolve the problem informally. The employee must request this meeting within five (5) calendar days of the event or condition complained of.

If the employee is grieving a disciplinary action already discussed with the supervisor, the meeting is encouraged, but not mandatory.

2. **Department Procedures:** If the department has an informal complaint resolution program, this process may also precede the filing of a formal grievance, according to the rules and limitations set up by the department.
3. **Mediation and Conflict Resolution**
 - a. **Timing of Mediation:** At any point in step 1 or step 2 of the formal grievance procedure, mediation may take place. While mediation is going on, filing deadlines for various stages of the grievance procedure are suspended. Filing deadlines will come into play again if the grievance is not settled in mediation, and time frames for response will use the date of the mediator's notification to the employee and department head or supervisor of the end of the mediation process.
 - b. **Suitability of Mediation Process:** Not all disputes are suitable for mediation; situations where an employee has been recommended for dismissal or demotion, allegations of unlawful discrimination by an employee, and situations where detrimental personal conduct is alleged are less likely to benefit from the mediation process. On the other hand, disputes which have not yet reached such a serious stage, or where an agreement between employee and supervisor and/or department head

could possibly resolve the situation to everyone's benefit could be facilitated by mediation.

- c. **Request for Mediation:** If mediation of the conflict is agreed upon, a written request, signed by both parties to the dispute, must be forwarded to the Human Resources Director who shall assist them in the process of selecting mediators and with scheduling the mediation session(s).
- d. **Selection of Mediators:** Two (2) mediators shall be chosen, one by the employee and the other by either the supervisor or department head. Mediators are chosen from a panel of City employees who have been trained to help others reach mutually acceptable agreements. The parties may not choose mediators from the same department in which the problem has occurred.
- e. **Mediation Sessions:** Parties to the dispute shall meet in an informal setting with the two mediators. The mediators shall facilitate discussion of the issues with the goals of assisting the disputants in resolving the problem.
- f. **Resolution of Mediation Process:** If mediation resolves the grievance, a memorandum of agreement shall be signed by the parties and by the mediators and be forwarded to the Human Resources Department. At this point the grievance shall be considered closed.

If the parties do not reach agreement, the mediators shall notify the Human Resources Department and the parties themselves that the mediation process is completed. The employee may then determine if he/she wishes to have the grievance considered at the next level.

- g. **Confidentiality:** The mediation process is confidential and mediators shall not disclose information discussed during mediation sessions. Documents generated as part of the mediation process will not be admissible as evidence in future proceedings, and are considered confidential.

Additionally, no offers of compromise made during mediation may be referred to in subsequent formal processing of the grievance.

B. FORMAL GRIEVANCE PROCEDURES

Step I. Grievance to Immediate Supervisor

(If the disciplinary action is taken by the Supervisor level, the grievance process starts with the Department Head-Step II.)

- a. **Filing:** The first step of the formal grievance procedure is for the employee to file a written notice with the supervisor. This notice must be filed within five (5) calendar days from receipt of the notice of discipline EXCEPT in cases of demotion, suspension or termination in which the written notice must be filed with the supervisor within fifteen (15) calendar days from receipt of discipline notice. If the disciplinary action is taken by the Supervisor level, the grievance process starts with the Department Head.

If established departmental complaint resolution procedures have been utilized, the filing date is extended by an additional five (5) or (15) calendar days, as appropriate, from the employee's receipt of a decision.

- b. **Format:** A grievance may be filed by completing step 1 of the Grievance Form (available in the Human Resources Department), or may be filed in letter or narrative form. In either case, the grievance must be specific, stating the problem or complaint and what solution or remedy the employee desires. The Human Resources Director or his/her designee shall assist an employee in correct filing procedures, if requested by the employee.
- c. **Supervisor's Response:** The supervisor shall investigate the matter and respond in writing to the employee within five (5) calendar days of receipt of the formal grievance. The grievance and the supervisor's response should be forwarded to the Human Resources Department by the supervisor. Time limits for either party may be waived by mutual consent.
- d. **Mediation:** Mediation may be requested at any point in Step I, with the agreement of employee and supervisor.

Step II. **Appeal to Department Head**

(If the disciplinary action is taken by the Department Head, the grievance process starts with the City Manager-Step III).

- a. **Filing.** If the grievance is not settled to the employee's satisfaction at step 1, the employee may proceed to step 2. The employee must file either the Grievance Form (available in the Human Resources Department), with step 2 section completed, or a letter or narrative with the department head, with five (5) calendar days of receiving the supervisor's written response.
- b. **Format:** If the solution/remedy desired has altered since the initial grievance, or if there is a particular area of disagreement with the supervisor's written response, this shall be specified by the employee along with his/her request for consideration of the grievance by the department head.

- c. **Department Head Response:** The department head shall review the issues in the grievance, meet with the employee, and respond in writing to the employee within five (5) calendar days of the meeting. The grievance and the department head's response shall be forwarded to the Human Resources Department by the department head.

Time limits for either party to the grievance may be waived by mutual consent.

- d. **Mediation:** Mediation may be requested at any point in step 2, with the agreement of the employee and the department head.

Step III. **Appeal to City Manager**

- a. **Filing:** If the grievance is not settled to the employee's satisfaction by either mediation or the department head's response, the employee may proceed to Step 3. At this step, the employee has the choice of either an informal appeal to the City Manager or a formal appeal to the Personnel Appeals Committee. The employee shall file with the City Manager, using either the Grievance Form (available in the Human Resources Department) with step 3 section completed, or a letter or narrative, within five (5) calendar days of receipt of the department head's written response.
- b. **City Manager Hearing Alternative:** If the grievance is referred to the City Manager he/she shall arrange a time to hear the employee and their representative (if any) within 20 calendar days. At this meeting the employee is allowed to present their case, including any evidence, and to review the evidence in the City's possession. Within 15 calendar days, the City Manager shall provide his response in writing which shall be final. Once the grievance has been heard by the City Manager, the grievance cannot be referred to the Committee.

The grievant and the Department Head or City representative may be represented by legal counsel at this hearing. The grievant must notify the Human Resources Coordinator of the name of their attorney, if applicable, within five (5) calendar days of filing Step 4 of the grievance.

- c. **Personnel Appeals Committee.** After receiving notification of the employee's intent to grieve to the Personnel Appeals Committee, the Human Resource Coordinator shall begin processing the grievance hearing.

The Personnel Appeals Committee provides an additional venue for the fair hearing and resolution of employee grievances and appeals in a procedure free of recrimination. The Committee reviews the record of the appeal or grievance and hears testimony from all parties involved in the grievance or appeal. The Personnel Appeals Committee then recommends a course of

action to the City Manager. By state statute, the authority over all City employees is vested in the City Manager, and the City Manager determines the final action. The Committee may also suggest improvements in procedure or policy to the City Manager.

The grievant must notify the Human Resources Coordinator of the name of their attorney, if applicable, within five (5) calendar days of filing Step 3 of the grievance.

1. **Committee Description:** The Personnel Appeals Committee is composed of six (6) citizens appointed to 3-year terms by the Mayor. The Committee has a standing meeting scheduled to hear grievances. The City Clerk will inform the employee of the regularly scheduled hearing date(s) and may attempt to schedule additional hearing dates if the wait for a hearing will be more than four (4) weeks.

Five (5) members of the Committee shall constitute a quorum for the hearing; the first five (5) members to arrive for the meeting shall sit on the case. The sixth (6th) member shall be excused, or sit as an alternate should any of the first five (5) experience a conflict of interest. The Committee Chairperson may agree to go forward with less than five (5) members if both parties so stipulate. Each side is limited to three (3) hours to present their case. The full objective of the Committee is to determine whether or not the employee violated City policy.

2. **Privacy of Hearings:** All hearing shall be closed unless the City Manager elects to allow all or part of the hearing to be conducted as a public hearing.

A closed hearing shall exclude the media and members of the public, but may include the employee, the employee's attorney or other representative, the Personnel Appeals Committee, management representatives, the City Attorney, member(s) of the staff of the Human Resources Department and witnesses called by either side, or by the Committee. The witnesses may be asked to leave after their testimony.

Employees or others not directly involved in the hearing shall be excluded unless specifically requested by the employee, and may be barred from hearing testimony relating to employees other than the grievance.

3. **Presentation and Procedures:**

- (a) **Sequence of Presentation:** In cases of appeals of disciplinary action, the City presents information first, and the City has the final summation; in all other cases, the employee presents information first. Each side is limited to three (3) hours for presentation of their case. The Committee may, at its discretion, vary this procedure, but shall

afford full and equal opportunity to all parties for presentation of any material or relevant evidence and shall afford the parties the right of cross-examination. It is recommended that the cases of alleged discrimination and sexual harassment, the grievant present the case first.

- (b) **Discovery:** Documents, exhibits, and lists of witnesses shall be exchanged between the parties seven (7) calendar days in advance of the hearing. The exchange will be made by 2:00 p.m. of the seventh day.
- (c) **Statements:** At the option of each party, opening statements may be made at the beginning of the hearing, and the Committee may ask for such statements in order to clarify the issues involved in the grievance.
- (d) **Witnesses and Records:** Each side may call witnesses, and the Committee may call additional witnesses or request to see records or other information it deems relevant. Employees who are requested to act as witnesses during a period when they will be on duty must be scheduled through the Human Resources Department.

Committee members and opposing sides may question each other's witnesses, keeping in mind the importance of decorum and courtesy.

- (e) **Evidence.** The Committee has the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence.

All evidence shall be presented in the presence of the Committee and the parties, except by mutual consent of the parties.

- (f) **Objections:** The Committee by majority vote may decide procedural questions and rule upon objections raised during the course of the hearing. Witnesses other than the parties should remain in the hearing room only while given their testimony.
- (g) **Summation:** After each side has had the opportunity to present its evidence, the Committee Chair shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, both parties shall be given the opportunity to make closing statements summarizing their positions, following which the hearing should be declared closed.

(h) **Committee Recommendation:** The Committee shall meet to consider the hearing information, and shall issue their report to the City Manager with copies to the employee, as soon after the hearing as possible, usually within ten (10) calendar days. The committee shall determine whether the employee violated City policy, a directive from their supervisor, or whether grounds for disciplinary action exist. The Committee does not have the authority to formulate policies or procedures or to alter existing policies and procedures. Committee decision must be consistent with the provisions of law and existing written policies and standard practices. In appropriate cases, a panel might determine that a grievant is entitled to reinstatement, from which full, partial, or no back pay and/or full, partial, or no benefits might be awarded. In no case does the Committee have the authority to award damages or attorney's fees. No claims, including claims for back wages by the employee, shall be valid for a period of more than fifteen (15) calendar days prior to the date the grievance was filed. An exception to that time period shall be where the circumstances of the case were unknown to the grievant and they had grounds for such a claim. In such a case, the claims shall be limited retroactively to a period not to exceed thirty (30) calendar days prior to the date the employee first filed the grievance.

(i) **Compensation:** Employees who the grievant asks to appear as witnesses shall be compensated for their time if their appearance occurs during their usual work schedule. The employees required by the City to appear before the Committee shall be compensated for their time: non-exempt employees shall be paid at their normal hourly rate, and exempt employees shall be eligible for compensatory time off, based on departmental rules. The Committee shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing and the hearing shall be closed to the public.

4. **Form of Decision.** The Committee shall render its decision on the appropriate City form and distribute copies to the grievant, City Manager, Department Head, and the Human Resource Coordinator within fifteen (15) calendar days of the conclusion of the hearing. The reason for the Committee decision will be noted on the form. The majority decision of the Committee, acting within the scope of its authority, shall be the final recommendation to the City Manager and shall be consistent with the provisions of existing written policies, standard practices, procedures, and laws. The question of whether the relief recommended by the Committee is consistent with the existing written policies, standard practices, procedures, and laws shall be determined by the City Manager.

5. **Conduct and Responsibilities:** The decision and recommendations of the Committee may not expand the issue or the relief requested in the original

grievance. The Committee has the authority to recommend to uphold the action taken, or to reverse, reduce or otherwise modify the actions of the City. The Committee does not have the authority to exonerate an employee from all discipline when the guilt of the employee is admitted or guilt is determined by the Committee based on the evidence presented.

5.0 CITY MANAGER'S FINAL DECISION

The City Manager shall review the report of the Personnel Appeals Committee. The manager may, in the manager's discretion, receive additional information before issuing the final decision to the employee. A copy of the report of the Personnel Appeals Committee and the response to the employee shall be sent to the City Council.

If the City Manager's final decision is different from the recommendation of the Committee, he/she shall explain the reasons for his/her decision to the City Council.

6.1 REPRESENTATION

A. Employee's Right to Representation in the Grievance Process

During the presentation of a grievance at Step 3, or in mediation at any level, the employee with the grievance may be represented by an attorney at the employee's own cost.

B. City Attorney

The City Attorney shall act as the Personnel Appeals Committee attorney and advisor.

7.0 NON-RETALIATION

No employee shall be retaliated against by the supervisor, department head, City Manager or other City officials for making use of the grievance procedure or for seeking or participating in mediation.

8.1 GRIEVANCE RECORDS AND RECORDS PRIVACY

A. Use of the Grievance Form and the Mediation Request Form is encouraged but not mandatory as long as all required information and signatures have been provided.

B. At each stage of the grievance procedure, the grievance must be specific concerning the solution or remedy requested. At meetings between the employee and the supervisor, and the employee and the department head this should be clarified if necessary, and discussed.

C. The employee's signature and date of receipt must be obtained at each stage; unless otherwise expressly stated signature indicates receipt, not agreement.

D. Copies of grievances, grievance responses, and mediation documents shall be sent to the Human Resources Department.

- E. Grievance records are confidential, following the same privacy of records requirements as other employee records.
- F. If the employee requests a public hearing before the Personnel Appeals Committee, the City may inform others of the time of the hearing and of who filed the grievance. The decision of the Personnel Appeals Committee will not be made public by the City unless the City Council deems it to be in the best interest of the City.

VIII. FRINGE BENEFITS

1.0 Medical Care, Dental, and Vision Insurance. Health care, dental and vision insurance are paid for by the City for each full-time regular employee after the first day of the month following their hire date. Employees may elect to include coverage for family members, however, the employee would pay the premium for family coverage. Details of medical care, dental and vision coverage and benefits are outlined for each employee in a separate booklet.

The City of Elizabeth City will pay health and life insurance premiums for retirees with a minimum of twenty (20) years of service with the City if they were hired prior to June 11, 1996; but at age 65, these employees must secure their supplemental medical insurance from an insurance carrier other than the city's and the city will provide a maximum of \$1,200 annually against their supplementary medical insurance premium based on the Consumer Price Index (CPI) which will periodically change.

Employees hired after June 11, 1996 must first meet the full, unreduced retirement benefit of the state retirement system before being eligible for paid medical insurance (Age 65 or 30 years at any age for regular employees; and age 55 or 30 years at any age for police officers.) After 5 years of creditable service with the City of City, if you become totally and permanently disabled for your job, as approved by the Medical Review Board, you become eligible for disability retirement benefits. The City will pay the employee's insurance for as long as the employee remains disabled from performing the essential functions of their job with the City, or any other jobs available with the City, or reaches the age of 65.

- 2.0 **Life Insurance.** Life insurance coverage is also provided at no cost to the employee, including accidental death and dismemberment coverage.
- 3.0 **Retirement and Death Benefits.** The City's employees participate in mandatory retirement benefit plans which employees are required to join. Benefits and information on the systems are available in printed brochures that are available in the Human Resources Department; retirement benefits are available to each full-time regular employee immediately, upon hire. Under the North Carolina Law Enforcement Officers' Benefit and Retirement System and the North Carolina Local Governmental Employees' Retirement System, the City also provides death benefit coverage at no cost to full-time regular employees.

The City may elect to provide additional retirement benefits to full-time regular employees through a 401(k) services plan.

- 4.0 **Social Security.** Social Security is federally mandated insurance to provide an employee with income in his/her senior years. Disability and death benefits are also provided by Social Security.

Social Security also helps pay medical bills for those who have been getting disability benefits for twenty-four (24) consecutive months, or have reached age sixty-five (65).

An employee may retire with unreduced service retirement benefits when he/she reaches age 65 and completes five years of creditable service; or when he/she reaches age 60 and completes 25 years of creditable service; when he/she completes 30 years of creditable service, at any age; or with five years of creditable service at any age if the employee becomes totally and permanently disabled for his/her job, as approved by the Medical Board.

An employee may retire early with reduced retirement benefits when he/she reaches age 50 and completes 20 years of creditable service, or when he/she reaches age 60 (age 55 if you are a police officer or fireman) and completes five years of creditable service.

The cost of Social Security protection is paid through an automatic payroll tax. The City matches the employee's payment for Social Security.

More information about Social Security benefits is available from the nearest Social Security office.

- 5.0 **Uniforms.** The City provides uniforms for certain personnel in public works and public safety services. Such employees are required to wear uniforms so they will be easily identified as City employees while working on or near private property. In addition to the identification factor, clothing furnished by the City represents a significant financial benefit to the employee.

Employees who enjoy this benefit are responsible for the uniforms. Therefore, employees shall be responsible for the costs of avoidable damage or loss of uniforms. An employee shall wear his/her uniform properly, not allow them to be worn by other individuals and shall wear them only during working hours or to and from work. Upon separation from employment, the employee shall return all uniforms to the City.

- 6.1 **Employee Development and Training.** City employees are encouraged to further develop their skills through continuing education and training. Limited funds may be made available to help finance successfully completed job-related courses of study and other special training programs upon prior approval of the City Manager.

The City continues to encourage “education and training” for employees in their current positions and will pay for tuition, books, lodging, and registration if the budget permits and if there is prior approval by the City Manager. All education and training successfully completed benefits the City as well as the employee and enhances their success and performance evaluations for the future.

In order for an increase in pay to be given for certifications completed, all three (3) of the following conditions must be met:

- (1) It is a basic State requirement that you take the course?
- (2) The course requires a formal test sanctioned by the State for certification?
- (3) The course is mandatory in order for you to continue to perform your current duties under your present title?

Prior to signing the input form for approval of payment, the course in question will be researched to assure that all of the above criteria applies.

Section II

Drug & Alcohol-Free Work-Place Policy

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[This will need adjustment]

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**CITY OF ELIZABETH CITY
DRUG AND ALCOHOL-FREE WORKPLACE POLICY**

1. PURPOSE

The purpose of this policy is to state the City of Elizabeth City's commitment to maintaining a drug and alcohol-free workplace and to provide notice of the measures that the City takes to fulfill that commitment through an alcohol and drug testing program.

2. DISCUSSION

Due to the critical mission of City Employees, and the reliance by the citizens of the community upon this organization for law enforcement and other services, it is the policy of the City to maintain a drug-free work environment through the use of an applicant, lateral transferee, random and reasonable suspicion testing program.

Municipal employment has several uniquely compelling interests that justify the implementation of a drug testing program. The public has a right to expect that those who serve them are at all times both physically and mentally prepared to assume these duties. There is sufficient evidence to conclude that the use of controlled substances and other forms of drug abuse will seriously impair an employee's physical and mental health and, thus, job performance.

Where employees participate in illegal drug use and drug activity, the integrity of the City and public confidence in the City are destroyed. This confidence is further eroded by the potential for corruption created by illegal drug use. This City has a compelling interest in ensuring that every employee has unimpeachable integrity.

The City also has a compelling interest in preventing an unwarranted risk to the safety of other employees and the citizens of the community posed by the potential use of vehicles, equipment, tools and firearms by employees suffering from impaired perception and judgment.

This City places a great deal of trust and confidence in the integrity and loyalty of each of its employees. Illegal drug use by employees of the City evidences less than the complete reliability, stability and good judgment that is consistent with municipal employees and creates the possibility of coercion, influence and irresponsible action under pressure that may pose a threat to effective job performance. Additionally, employees who use illegal drugs, on or off duty, tend to be less productive, less reliable, and prone to greater tardiness and absenteeism than their fellow employees who do not use drugs.

Therefore, in order to ensure the integrity of the city, to protect the citizens of this community, and to preserve public trust and confidence in a fit and drug-free work force, the City shall implement a drug/alcohol testing program. This program is designed to detect prohibited drug and alcohol use by employees and to reduce the likelihood that drug-dependent applicants and lateral transferees will be employed by the City.

3. **DEFINITIONS**

- A. Lateral Transferee - An employee who applies for employment, or appointment where the employee has previously held employment and has been separated from employment for no more than twelve months.
- B. Applicant - A person, other than a lateral transferee, who applies for employment.
- C. Employee - Any person employed by the City in any position or classification.
- D. Drug Test - The compulsory production and submission of urine by an applicant, lateral transferee, or employee in accordance with departmental procedures, for chemical analysis to detect prohibited drug/alcohol use.
- E. Reasonable Suspicion - An articulable belief that an employee has used or is using illegal drugs or is using alcohol while on duty drawn from specific and particularized facts and reasonable inferences from those facts.
- F. Alcohol - An intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weights including methyl or isopropyl alcohol. Alcohol also includes a beverage, mixture, preparation, or medication, containing alcohol.
- G. Evidential Breath Testing Device - A type of equipment used for the testing of breath for the presence of alcohol.

4. **APPLICABILITY**

All employees are covered under the Substance and Abuse Policy. All applicants who have been offered employment must undergo a drug screen as part of the hiring process. All employees are subject to post-accident or post-incident testing. In addition, all employees who must hold a Commercial Driver's License are subject to random and "follow-up" testing as required by the United States Department of Transportation.

5. **PROHIBITED CONDUCT FOR ALL CITY APPLICANTS AND EMPLOYEES.**

The following conduct is expressly prohibited and violations will result in disciplinary action up to and including termination:

- A. The unauthorized use, consumption, possession, manufacturing, distribution, dispensation or sale of alcohol, controlled substances, illegal drugs or drug paraphernalia on City premises, in City supplied vehicles, while on duty or in any City work area. Law enforcement officials shall be notified, as appropriate, where criminal activity is suspected.

- B. Being under the influence of an unauthorized or controlled substance, an illegal drug, or alcohol while on duty.
- C. Sale or possession of illegal drugs; or possession with intent to sell illegal drugs.
- D. No employee shall use any prescribed or over-the-counter medication except in strict compliance with all usage instructions.
- E. Any employee who unintentionally ingests, or is made to ingest, a controlled substance shall immediately report the incident to his supervisor so that appropriate medical steps may be taken to ensure the employee's health and safety.
- F. Any employee having a reasonable basis to believe that another employee is illegally using a controlled substance or alcohol, or is in possession of any controlled substance, shall immediately report the facts and circumstances to his supervisor.
- G. No employee shall consume alcohol while on duty nor have a blood alcohol concentration greater than .04 (or .02 in a safety-sensitive position) at any time while on duty.
- H. An employee shall notify his supervisor if convicted of a violation of a criminal statute relating to drugs or alcohol within five days after such conviction, including driving while impaired (DWI).
- I. No employee shall use alcohol eight (8) hours prior to reporting to work.
- J. No employee shall use or have the odor of alcohol or drugs on his/her breath during working hours, including breaks and meal periods, while on City premises, or acting in an official capacity or while operating any City vehicle.

6. **EMPLOYEE TESTING**

The City will consider an employee for a drug screening test under the following circumstances:

- A. **Pre-employment** - All applicants who have been offered employment with the City will be required to undergo a drug screening test as part of the hiring process. The City will withdraw an offer of employment made to any applicant whose drug screen test reveals the presence of illegal drugs or prescription drugs without a valid prescription.
- B. **Post-Accident or Incident** – All full time and part time employees will be tested for the presence of controlled substances and alcohol following an on-the-job accident/incident that involves the following:
 - (a) A fatality

- (b) Bodily injury requiring professional medical care other than first aid as a result of the accident. The employee is tested if such bodily injury occurs to an employee or citizen or both.
- (c) Property damage when a law enforcement officer determines that the employee contributed to the accident/incident.

Post-accident drug and alcohol test will be administered as soon as possible, but not more than eight (8) hours following the time of the accident. Refusal to testing could result in disciplinary action including termination unless the employee is seriously injured.

C. **Reasonable Suspicion Testing** – When there is reasonable suspicion that any employee on duty has alcohol or drugs in his or her system, the employee will be tested. Reasonable suspicion must be based on specific, objective facts or reasonable inferences drawn from facts that would cause a reasonable person to suspect that the employee is or has been using drugs or alcohol. Facts supporting a reasonable suspicion determination include, but are not limited to, any one or more of the following:

- (a) direct observation of prohibited drug or alcohol use
- (b) slurred speech
- (c) odor of marijuana or alcohol about the person
- (d) inability to walk a straight line
- (e) physical altercation
- (f) verbal altercation
- (g) behavior that is so unusual that it warrants summoning a supervisor or anyone else in authority (i.e. confusion, disorientation, lack of coordination, marked personality changes irrational behavior)
- (h) possession of drugs or alcohol
- (i) a report of prohibited drug or alcohol use provided by a reliable and credible source
- (j) arrests, citations, and deferred prosecutions associated with drugs or alcohol.

D. **Federal or State Mandated Substance Abuse Testing** - If any City employees subject to federal or state mandated substance abuse testing, including but not limited to Department of Transportation regulations, will be tested pursuant to such testing requirements notwithstanding this Substance Abuse Policy.

E. **Applicant and Lateral Transferee Drug Testing** – Applicants and lateral transferees applying for employment shall be required to take a drug test as a condition of employment during the application process (but not more than sixty (60) days prior to the date of employment as a Criminal Justice Officer). Applicants and lateral transferees shall be disqualified from further consideration for employment under the following circumstances:

- (a) Refusal to submit to a required drug test; or
 - (b) A confirmed positive drug test indicating drug use prohibited by this policy.
- F. In order to maintain the effectiveness and reliability of the screening process, applications should not be given more than twenty-four (24) hours advance notice of the exact testing date and time.

7. **TESTING PROCEDURES**

- A. **Consent** – Before a drug and alcohol test is administered, employees and job applicants will be asked to sign a consent form authorizing the test and permitting release of test results to those City officials with a need to know. The consent form shall provide space for employees to acknowledge that they have been notified of the City’s drug testing policy and to indicate current or recent use of prescription or over-the-counter medication.
- B. The consent form shall also set forth the following information:
- (a) the procedure for confirming an initial positive test result;
 - (b) the consequences of a confirmed positive test result;
 - (c) the right to explain a confirmed positive test result and the appeal procedures available; and
 - (d) the consequences of refusing to undergo a drug and alcohol test.
- C. **Refusal to Consent** – Any employee who refuses to consent to a drug and alcohol test is subject to disciplinary action up to and including termination. Any final applicant who refuses to consent to a drug and alcohol test will have the offer of employment withdrawn.
- D. **Confidentiality** – All information from an employee’s or applicant’s drug and alcohol test is confidential and only those with a need to know are informed of the test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. The results of a positive drug test shall not be released until the results are confirmed.
- E. **Laboratory Testing Requirements** – All drug and alcohol testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the City. To be considered a testing site, a medical facility or lab must follow have the following factors:
- (a) testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;

- (b) methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;
 - (c) chain of custody procedures which ensure proper identification, labeling, and handling of test samples; and
 - (d) retention and storage procedures which ensure reliable results on confirmatory test of original samples.
- F. **Methodology** – Initial screening may be conducted using an immunoassay testing method. Confirmation testing shall be conducted by a gas chromatography/mass spectrometry test. Should the initial test produce a positive test result, the lab will automatically perform a second test. Substances tested for include cannabinoid, barbiturates, methoqualone, benzodiazepines, cocaine, phencyclidine (PC), opiates and amphetamines or their metabolites, and alcohol. The testing thresholds established by the Department of Health and Human Services for federal Workplace Drug Testing Programs are adopted herein by reference and shall include any later amendments and editions.
- G. **Positive Test Results** – An employee whose drug test yields a positive result shall be given a second or “confirmation” test using a gas chromatography/mass spectrometry test. The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test. If the confirmation test results are positive, then the employee will be notified of the positive test results and will have an opportunity to rebut verbally or explain in writing the tests results. The City may, in its discretion, take this explanation into account in making any employment decision.

An employee may request a retest of the original urine sample at his or her expense after notice of a confirmed positive test. Within five working days after the receipt of the confirmed positive test results, the employee shall notify the City in writing of his or her intention to obtain such a retest. The retest shall be conducted of the original sample and the same criteria as used in the original test shall be used in this retest. If the retest does not confirm the original positive test result, then no adverse personnel action based upon the original test will be taken.

8. **SPECIMEN COLLECTION PROCEDURES**

- A. The testing procedures and safeguards provided in this policy to ensure the integrity of City drug/alcohol testing shall be adhered to by all personnel administering drug and alcohol test.
- B. The individual to be tested (hereinafter referred to as "donor") should be positively identified by presenting one of the following:
 - (a) NC Driver's License
 - (b) Division of Motor Vehicles Identification Card

(c) Other government issued picture ID

- C. The donor will be required to complete an Applicant/Employee Consent Form.
- D. The donor will have completed an Applicant/Employee Medication Information Form.
- E. The room where the sample is to be obtained must have been checked to ensure that it is private, secure, and free of any foreign substance.
- F. A toilet bluing agent should be placed in the toilet bowl to ensure the donor does not use toilet water to dilute the specimen.
- G. The donor should be asked to remove any unnecessary outer garments such as a coat or jacket.
- H. All personal belongings such as a purse or briefcase should be left outside the collection room. A donor should be allowed to retain his/her wallet.
- I. Donor should be instructed to wash and dry hands.
- J. Donor should be provided with a new and/or unadulterated specimen collection bottle/container. The donor should be instructed that a specimen of 60 milliliters or 2 ounces is necessary for urinalysis.
- K. Donor should be instructed while alone in the collection room he/she may not run any water, flush the toilet, or handle anything else in the room.
- L. Donor enters the collection room and the collector stands outside the door. Collector should note on the Urine Specimen Collection Checklist if he/she hears any unusual activity.*

*If the donor runs water or flushes the toilet while alone in the collection room, then the specimen is invalid and the process must begin anew.
- M. Collector should receive the sample from the donor. Should the specimen need to be transferred from the collection container to other containers, the donor should make such transfer while under observation by the collector. The specimen should be kept in full view of both the collector and donor until it is sealed.
- N. Collector should check to see that a specimen of sufficient quantity has been collected. Should a specimen of insufficient quantity be presented to the collector, that specimen should be discarded and another specimen should be collected in a new container.*

*If the donor is unable to provide a specimen at that time, it is recommended that the donor be given eight (8) ounces of liquid (water, coffee, soft drink) every thirty (30) minutes. This should enable the donor to produce a sample within two hours. The donor must stay at the collection site until a specimen of sufficient quantity is obtained.

- O. If the specimen is of sufficient quantity, the collector should check the temperature of the specimen.*

*Temperature must fall between 90.5° - 99.8°F and time from urination to temperature measure shall not exceed four (4) minutes.

- P. Collector should inspect the specimen color and look for any signs of contaminants. Any concerns should be noted on the Urine Specimen Collection Checklist. Should there be reasonable suspicion that the donor tampered with the specimen, the collector must notify the employing agency and send the specimen to the laboratory for testing.
- Q. Collector should seal the specimen container and be sure that appropriate identification is added to the container's outer label(s).
- R. Donor may now wash hands.
- S. Collector should see that the specimen is appropriately safeguarded until such time as it is prepared for and delivered to the laboratory.

9. **COMMUNICATION OF TEST RESULTS:**

- (a) **Negative Test Results** – If the drug screening test result is negative, the laboratory will so advise the designated City official who will inform the employee or job applicant.
- (b) **Positive Test Results** – In the event of a positive test result the following action shall be taken:
 - (1) The employee shall be informed of the positive test results verbally by the City Manager or his designee followed by a written notice of the test results.
 - (2) The City Manager will schedule a meeting between the employee, the Department Head and City Manager. At this meeting, the problem will be discussed and a decision will be rendered as to whether the employee could benefit from the Employee Assistance Program, or whether suspension from work and/or termination from employment would be appropriate. The City encourages the use of the Employee Assistance

Program whenever possible. Employees who hold a CDL will be subject to the Department of Transportation regulations for positive test results.

- (3) If suspension and/or termination from employment is recommended by the City Manager, the employee shall be notified in writing. The employee has a right to appeal the decision per the Personnel Policy, Article ***, Section ***.

10. **FAILURE OF AN EMPLOYEE TO COOPERATE:**

Employee compliance with the City's Substance Abuse Policy is mandatory. Failure or refusal of any employee to fully cooperate and participate in the program, sign any required document or submit to a drug or alcohol screening test will be grounds for termination of employment, unless a compelling, satisfactory reason is provided. Employees who continue employment while undergoing counseling or rehabilitation will be required to meet all established standards of conduct and job performance. Employees who have been referred for counseling or rehabilitation under this policy shall be required to fully cooperate and participate in their rehabilitation program and adhere the recommendations of the City Manager. Employees who have been referred to counseling or rehabilitation may be required to undergo drug screening tests at any time for a period of up to two years. If an employee receives a subsequent positive drug test after counseling and/or rehabilitation they are subject to immediate termination.

11. **MEDICAL REVIEW OFFICER**

In order to provide, to the greatest extent possible, for the privacy and confidentiality of applicants and employees who are required to submit to drug testing, all laboratory results will be sent directly to the Medical Review officer. All specimens reported by the laboratory as negative will in turn be reported to the agency by the MRO as negative.

With respect to confirmed positive results, the MRO:

- (a) may conduct medical interviews with the applicant/employee;
- (b) may review applicant/employee medical histories or any other biomedical factors;
- (c) shall review all medical records made available by the tested applicant/employee when a confirmed positive could have resulted from legally prescribed medication;
- (d) may deem the results scientifically insufficient for further action and declare the result to be negative based on a review of such data or facts as he may deem appropriate.

12. **CHAIN OF EVIDENCE – STORAGE**

- (a) Each step in collecting and processing of the urine specimens shall be documented to establish procedural integrity and the chain of custody.
- (b) Where a positive result is confirmed, urine specimens shall be maintained by the laboratory in secured, refrigerated storage of an indefinite period.

13. **CONFIDENTIALITY OF TEST RESULTS**

- (a) A positive result which the MRO justifies by appropriate medical or scientific documentation to account for the result as other than the intentional ingestion of an illegal drug or prohibited use of alcohol will be reported as a negative result and will not be released for purposes of identifying illegal drug or prohibited alcohol use. Records of the MRO shall only be released to the City Manager or his designee and, when necessary, to the North Carolina Criminal Justice Education and Training Standards Commission.
- (b) All records and information of personnel actions taken on applicants and employees with verified positive test results shall be maintained in accordance with state and local personnel policies and procedures.

14. **TESTS REQUIRED FOR COMMERCIAL DRIVER'S LICENSE HOLDERS**

Pursuant to federal law, employees with commercial driver's licenses and the supervisors of such employees will be tested under the following circumstances in addition to those referenced elsewhere in this policy.

- (a) **Pre-Employment/Pre-Duty** – Prior to the first time a driver operates a commercial motor vehicle, the driver shall be tested for alcohol and controlled substances. Applicants offered positions requiring CDL's must give written consent to permit the City of Elizabeth City to contact all previous employers over the past two years to be certain that the applicant's work history was free of substance abuse, alcohol use, positive drug or alcohol test results and test refusals. Applicants offered positions must provide written consent for post-accident testing and release of test(s) results to the City. Refusal of this consent will result in a withdrawal of an offer of employment.
- (b) **Post-Accident** – While on duty, a driver of a commercial motor vehicle, who is involved in an accident, must be tested for alcohol and controlled substances. Testing will be required in the case of a fatality, injury, the vehicle must be towed from the scene as a result of reportable accident or the driver receives a citation as a result of the accident. Every reasonable effort will be made to administer an alcohol test within two (2) hours of the accident. If unable to test within this time frame, the City shall prepare and maintain on file a record stating the reason the test was not promptly administered. If a test has not been performed within eight (8) Hours following the accident, the efforts to test will stop. Controlled Substance

testing will stop if not performed with thirty-two (32) hours following the accident. Supervisors shall document this failure to test within the prescribed time frames

A driver who is subject to post-accident testing must remain available at the scene, or the City will consider the employee to have refused to submit to testing. Refusal to submit to testing is a violation of this policy.

An employee who is seriously injured and cannot provide a specimen at the time of the accident shall provide the necessary authorization for obtaining hospital reports and other documents that would indicate whether or not there were any controlled drugs or alcohol in his/her system.

Testing conducted by federal, state, or local officials at the scene of the accident having independent authority to conduct tests for alcohol and controlled substances shall meet the requirements for post-accident testing. Employees will be required to consent to testing by such officials, and to release the results of such tests to the City.

(c) **RANDOM**

- (i) Alcohol random testing will result in at least 25% of the employees to be tested annually.
- (ii) Controlled substance testing requires at least 50% of the employees to be tested annually.

An employee subject to random testing must report immediately to the collection site upon notification.

(d) **REASONABLE SUSPICION**

Reasonable suspicion may be based upon, but not limited to, the following:

- (i) specific observations of actual use or possession of alcohol or controlled substances;
- (ii) physical symptoms of having used those substances such as incoherent speech or body odors;
- (iii) observation of abnormal conduct or erratic behavior, or possession of drugs or drug paraphernalia.

(e) **RETURN TO DUTY**

When an employee is returning to duty after being on leave or absent from the job for at least thirty calendar days, testing is required before beginning a safety-sensitive function.

(f) **FOLLOW-UP**

Follow-up testing is required following a return to duty after an employee has a confirmed positive test for substance abuse or an alcohol blood test of 0.04 or higher or 0.02 or higher in a safety-sensitive position and the employee has satisfactorily completed a rehabilitation program. A minimum of six follow-up tests are required with verified results during the first twelve months after returning to duty. Additional random tests are required during the 60 months after the employee returns to duty. The costs of the follow-up tests will be borne by the employee.

15. **REMOVAL FROM DUTY**

Under the following circumstances, employees will be removed from duty and placed on suspension with pay pending a final decision on the status of employment:

- (a) Refusal to be tested
- (b) Confirmation of a positive test result
- (c) After an accident requiring testing
- (d) When reasonable suspicion has been established
- (e) When the behavior, speech, and performance indications of alcohol/drug misuse are impossible to confirm with a test.

This list is intended to clarify situations but is not all inclusive. Employees shall be advised of their violations, have an opportunity to respond to the charges against them, and be notified of the status of their employment.

16. **SUBSTANCE ABUSE AWARENESS**

The Department of Human Resources shall be responsible for the development of a substance abuse awareness program which will provide information on the dangers of substance abuse in the workplace, available community resources and substance abuse detection.

All employees covered by this Policy are required to participate in training on alcohol misuse and controlled substance abuse consistent with the minimum federal requirements.

17. **NOTICE OF TESTING POLICY**

The City of Elizabeth City shall provide a copy of this policy to all employees. Positions subject to pre-hire testing shall be identified on published position vacancy announcement.

Questions related to his policy should be directed to the Director of Human Resources.

18. **CRIMINAL CONVICTIONS: NOTIFICATION**

(a) Any employee who is convicted of any criminal drug or alcohol statute offense occurring in violation of City policy is required to notify the employee's department head, in writing, no later than five (5) calendar days after such conviction. Any failure of an employee to provide this notification shall be a separate ground for disciplinary action.

(b) Any department head who receives notification that an employee has been convicted of a criminal drug or alcohol statute occurring in the workplace, in addition to the administrative actions directed by this Policy, shall immediately report the same to the Director of Human Resources who shall determine whether the employee involved was directly engaged in the performance of work pursuant to the provisions of a Federal grant. In such event, the Director of Human Resources shall promptly notify the Federal agency administering the grant of the conviction.

19. **SEARCHES**

The City reserves the right to search, without employee consent, all areas and property over which the City maintains joint control with an employee, or full control. Such areas and property include, but are not limited to, desks, closets, bookcases, lockers, file cabinets, and/or City vehicles. Searches may be conducted of employees and their personal belongings with the employee's consent. Warrants shall be obtained, if necessary, to search employees or to search areas or property over which the City has no control.

20. **SEVERABILITY**

The provisions of this Policy are severable and, if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

21. **SUMMARY**

Employees are encouraged to voluntarily request counseling or rehabilitation before their Substance Abuse leads to disciplinary or other work-related problems. No employee will have their job security jeopardized by such a good faith request.

No part of this policy, nor any of its procedures, is intended to affect the City's right to manage its workplace, to discipline its employees or to change the "at will" nature of employment with the City. Since it is impossible to anticipate every situation which may arise under this policy, the City Manager should be contacted to resolve any situation not addressed herein. This contact should be made before action is initiated, if at all practicable.

NOTICE TO REPORT FOR ALCOHOL AND/OR DRUG TESTING

Specimen _____ Collection _____ Site: _____
 _____ Applicant/Employee's Name: _____
 _____ Date of Test: _____
 Applicant/Employee's SS #: _____ Time of Test: _____

REMINDER TO APPLICANT/EMPLOYEE: YOU MUST have an official photo identification, such as driver's license, with you when your report to the specimen collection site.

Contract Name: Elizabeth City Location Code: _____
 Address: Department of Human Resources
P. O. Box 347
Elizabeth City, NC 27907-0347

Supervisor's Name: _____ Phone: _____
 Type of Test: _____ Pre-employment/Pre-duty _____ Reasonable Suspicion
 _____ Return to duty _____ Random
 _____ Post-Accident _____ Follow-up

Test for: _____ Alcohol Type of Specimen: _____ Breath
 Test for: _____ Drugs Type of Specimen: _____ Urine

You are hereby directed to report immediately on ___/___/___ at _____ for alcohol and/or drug tests at the location identified above. The test you will be taking is required by the United States Department of Transportation (DOT) and by the City of Elizabeth City's Drug & Alcohol-Free Workplace Policy. The test requires that you provide the appropriate specimen. For your protection, your specimen collection will be conducted and analyzed in strict accordance with the standards of the DOT.

See Reverse Side

***ATTENTION TESTING SITE**

Please Invoice This Test To:
 CONFIDENTIAL
 Department of Human Resources
 City of Elizabeth City
 P.O. Box 347
 Elizabeth City, NC 27909

INSTRUCTION AND COLLECTION PROCEDURES

A refusal to be tested, or a positive test, will subject you to the disciplinary action authorized under DOT's regulations and under the City of Elizabeth City's Drug & Alcohol-Free Workplace Policy. An applicant who refuses to be tested or who test positive will not be hired. An existing driver who tests positive will be removed from jobs where injury could occur.

You must present a photo I.D., such as driver's license, to the collection site representative. Your failure to provide a photo I.D. will be considered by the City a refusal to be tested.

Alcohol/Drug Testing Collection Procedure

Normally, you will be permitted to submit your specimen in private. However, under the DOT's requirements, you automatically waive your right to privacy, and may also be required to submit a second specimen, if:

- (a) you present a specimen outside the temperature range and refuse an oral body temperature measurement, or your body temperature measurement is more than one (1) degree Centigrade from the specimens temperature;
- (b) the collector observes you attempting to adulterate, substitute, or otherwise tamper with your specimen.

Your specimen will be collected in an appropriate leak-proof collection container, which will be provided to you at the collection site.

The urine will then be poured into two specimen bottles and sent to the testing laboratory. the first specimen bottle, containing thirty (30) milliliters of urine, will be analyzed by the testing laboratory as your primary specimen.

The second specimen bottle containing fifteen (15) milliliters of urine, will be held by the laboratory so that, in the event the primary specimen is verified as positive, the second bottle can be sent to another laboratory for analysis, if you request it.

After you've given your specimen, give the container to the collector, who will seal and label them in your presence. You will then be asked to initial the containers; you should keep the containers in full view at all times until they are properly sealed and labeled.

You will then give the collection site the "Chain of Custody Control Form" to fill out and sign certifying your specimens. Your containers, together with your completed Chain of Custody Form, will then be sent to a NIDA approved laboratory to be analyzed.

**APPLICANT'S AUTHORIZATION TO OBTAIN
PAST DRUG AND ALCOHOL TEST RESULTS**

I, _____ (Applicant), understand that as a condition of employment with _____ (Company Name), I must give the Company written authorization to obtain the results of all DOT-required drug and/or alcohol test (including any refusals to be tested) from all of the companies for which I worked as a driver, or for which I took a pre-employment drug and/or alcohol test, during the past two years.

I authorize the Company to obtain from the companies listed below and I hereby authorize those companies to furnish the Company, the following information concerning my alcohol test results of 0.04 or greater and all positive drug test results during the past two years, and all events in which I refused to submit to a DOT-required drug and/or alcohol test during the past two years.

<u>Company Name</u>	<u>Dates worked for/applied to</u>
_____	_____
_____	_____
_____	_____
_____	_____

I certify that all of the information which I have furnished on this form is true and complete, and that I have identified all of the companies for which I have either worked; or applied for work, as a driver during the past two years.

Signature of Applicant

Print Name

Date

Driver Consent to Release Drug and Alcohol Test Results

(General Release Form)

I authorize and agree to the release of the results, including refusals to test, of my DOT-required drug and alcohol tests during the time period _____ - by (Company Name) _____ and its medical review officer for the specific purpose and to the person or persons specifically identified below:

Purpose: _____

Persons: _____

Date

Driver-Worker Signature

Driver-Work Name (print)

Witness

Name and Title (print)

Witness (optional)

Name and Title (print)

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Section III

**EMPLOYEE SAFETY
POLICY**

CITY OF ELIZABETH CITY SAFETY PROGRAM

I. POLICY STATEMENT

City management accepts the responsibility to provide a safe work environment for its employees. **All employees are required to comply with the Occupational Safety and Health Act.**

Safety will be given precedence over operational expediency or short cuts. The City of Elizabeth City expects all employees to comply with the Occupational Safety and Health Act.

Employees are expected to cooperate fully by observing the rules of Safety, by taking an active part in protecting themselves and their fellow workers, and by safely operating City equipment. **There shall be no retaliation against any employee for reporting safety concerns or issues.**

The joint effort of employees and management toward observance of this policy and specific departmental policies will provide safe working conditions.

II. PURPOSE

The purpose of the Safety Program of the City of Elizabeth City is to ensure the well being of employees and citizens and to protect City assets.

III. AREAS OF RESPONSIBILITY

A. Mayor and City Council

Responsible for guaranteeing a Citywide Safety Program supported by personnel policies and budgetary considerations.

B. City Manager

Responsible for overall management and administration of a comprehensive Safety Program.

C. Department Heads

1. Responsible for developing standard operating procedures which address safe work performance and insuring they are complied with by the department personnel.
2. See that all employees receive training as it relates to their job performance.

3. **Ensure that all safety policies, procedures, and OSHA requirements are complied with by all department personnel.**
4. Hold each supervisor accountable for injuries incurred by employees.
5. Require that all accidents are properly reported and investigated. Immediate corrective action is required whenever unsafe conditions are recognized or unsafe acts are observed.
6. Contact the Risk Manager for assistance with safety programs, formulating policies and interpretations of OSHA regulations.

D. Supervisors

1. Assume the responsibility of thoroughly instructing personnel in safe work practices on an ongoing basis. Inform employees that SAFE work performance is a requirement of employment in their position.
2. Provide employees with complete instruction regarding their duties and proper use of equipment prior to starting work.
3. Continuously inspect work procedures and equipment to eliminate unsafe acts and malfunctioning equipment.
4. Provide and enforce the use of safety protective equipment required for the work assignment.
5. Develop and require the maintenance of a program of good housekeeping.
6. Give full support to the Risk Manager in guaranteeing ongoing efforts to foster safe working conditions and positive employee safety attitudes.
7. Provide leadership by setting a positive example regarding safety for all employees.
8. Investigate all accidents immediately, and take necessary steps to prevent recurrence through employee training, modification of operating procedures or repair of equipment.
9. Complete a “Supervisor’s Accident/Incident Investigation Report” for all injuries and accidents and forward to the Risk Manager, even though medical treatment is not requested at the time of injury.
10. Notify employees that they will be held accountable for accidents resulting from unsafe work behavior and administer disciplinary action as warranted.

11. Encourage employees to verbalize safety concerns and offer suggestions to improve safety.

E. Risk Manager/Human Resources Department

1. Advise and assist department management in matters related to employees' safety and health.
2. Assist departments in providing safety training for employees and periodic specialized training for supervisory personnel in accident investigations, job safety analysis, etc.
3. Conduct follow-up investigations of accidents involving City employees, City equipment and property to determine the cause and ensure that preventative measure have been established.
4. Schedule pre-employment physicals for prospective employees, psychological examinations for prospective public safety employees, annual physicals for public safety personnel, annual audiological testing for applicable personnel, Hepatitis B. immunizations and Pulmonary Function Testing for personnel as required by OSHA.
5. Coordinate annual license checks of all employees operating City vehicles and drug and alcohol testing as required by DOT for CDL drivers.
6. Coordinate CPR and First Aid classes for employee certification.
7. Process orders for steel toed shoes and safety prescription glasses.
8. Conduct quarterly inspection of all City work places, to ensure compliance with State and Federal regulations.

E. All Employees

1. Exercise care in the course of work to prevent injury to themselves, their co-workers and damage to equipment.
2. Make supervisor aware anytime there is lack of understanding or additional training needed to perform a work assignment.
3. Make supervisor aware of any PPE not provided or any equipment not functioning properly.
4. Wear prescribed safety protective equipment applicable to the employee's job.
5. Participate in all safety and occupational health training.

6. Promptly report all unsafe conditions and unsafe acts to the supervisor.
7. Report all injuries and accidents to supervisor prior to the end of the workday of occurrence regardless of the necessity for immediate medical treatment or presence of property damage.
8. Keep work areas clean and orderly.

IV. Safety Committee

- A.** Promote employee safety awareness by developing safety policies, goals and objectives.
- B.** Monitor the overall effectiveness of the safety program.
- C.** Appoint membership representative of each department to serve two (2) year's terms with half the committee rotating off each year.
- D.** Provide guidance to the Risk Manager in implementing safety programs and recommending changes.
- E.** Review loss time injury cases and accidents involving City vehicles, equipment and property.
- F.** Review claims experience and inspection reports.
- G.** Create and maintain daily safety awareness.
- H.** Review vehicle accidents involving City vehicles and determine preventability by reviewing accident report and questioning the driver.

V. GENERAL SAFETY GUIDELINES

A. Housekeeping

1. Aisles, stairways, ladders, and passageways shall not be used for storage and shall be kept free of obstruction.
2. Liquid spills on floors shall be cleared up immediately or sprinkled with absorbent floor compound.
3. All tools or materials shall be returned to proper places when no longer in use.
4. Scrap material shall be continuously removed from work areas and placed in containers provided for their disposal.

5. Combustible material shall not be kept where it may cause fire or other damage to equipment.

B. Office Safety

1. Stair or wall rails shall be used when ascending or descending stairs. Stairs should be ascended and descended with no more than moderate speed.
2. Keep fingers away from ejection slot of staple tools before using or testing.
3. Do not enter dark places without adequate light.
4. Do not open more than one file drawer at a time.
5. File drawer shall be closed when leaving the cabinet.
6. Chairs, boxes or crates shall not be used for ladders.
7. Defective equipment shall be reported to the supervisor who will take immediate steps to correct the unsafe condition.
8. Read all instructions on the copier. When correcting misfeeds, note that there are hot surfaces.
9. Keep fingers clear of paper cutter blades.
10. Avoid use of extension cords.

C. Vehicle Operation

Employees will follow the rules listed below when operating vehicles owned by the City.

1. Drivers shall carry their State Driver's license at all times when operating motor vehicles, and will be checked regularly by the supervisor to monitor compliance.
2. Each employee who operates a vehicle regularly or occasionally is required to report any suspension or revocation of his/her license to his/her supervisor. Failure of an employee to report a change in the status of his/her license will result in disciplinary action.
3. At least once a year, the validity of each person's driver's license will be checked. No employee is allowed to operate any vehicle at a time when the employee's license is suspended or revoked.

4. Use the safety equipment in your motor vehicle while driving. SAFETY BELT USE IS MANDATORY!
5. No more than three (3) employees will ride in the front seat of any vehicle. Where only two (2) single seats exist, there is only to be one (1) rider per seat.
6. All passengers will ride inside the vehicle when moving with the exception of employees involved in garbage collection.
7. All traffic laws will be observed at all times.
8. Observe traffic warning signals and speed limits.
9. Avoid backing vehicle when unnecessary. Make sure you can see where you are going or have someone to direct you when backing is required.
10. Do not follow any other vehicle too closely; make sure that you can stop if the vehicle in front of you stops suddenly.
11. Report all mechanical problems to your supervisor and have repairs made by an authorized mechanic.
12. Practice courtesy and consideration of others while driving City vehicles.
13. Weather conditions which require the use of windshield wipers always require that headlights be turned on.
14. Trailers are to be fastened securely to the hitches. Safety chains will be crossed under the hitch and securely fastened before moving the vehicle.
15. All items to be transported either in a truck or trailer, which may move around during transport, will be secured.
16. Unoccupied vehicles shall never be left without turning off the ignition and removing the keys. Police vehicles may be exempt in emergency situations.
17. As city vehicles are city property, no eating or smoking of any sort is allowed in any city vehicle.

D. Fueling Conditions

1. Motors shall be shut off when a vehicle is being fueled.
2. Smoking is prohibited in/near a vehicle while it is being filled with gasoline.

3. Make sure the nozzle of the gasoline hose is in metallic contact with the vehicle while tank is being filled.
4. Spillage of gasoline must be cleaned up immediately by the individual responsible for the spill. Clean up materials may be obtained from the City Garage.

E. Fire Prevention and Control

1. Many large fires can be prevented if they are extinguished when they are small. To accomplish this purpose, every employee should know the location of alarm pull stations and extinguishers within their work area. The following rules relate to fire prevention and control.
2. Open flames or smoking shall not be permitted in areas where flammable gases or liquids are stored or used. **SMOKING IS PROHIBITED IN ALL CITY OWNED BUILDINGS AND CITY OWNED VEHICLES.**
3. All flammable liquids shall be stored in approved safety cans. All containers must be properly labeled.
4. Rubbish, trash or other combustible materials shall not be permitted to accumulate in buildings or on grounds.
5. Spilled flammables shall be cleaned up **immediately.**
6. Gasoline and other highly flammable liquids shall not be used for cleaning or degreasing.
7. Materials shall not be placed in front of fire extinguishers. Extinguishers must be readily accessible at all times.
8. All employees shall be trained in the proper use of fire extinguishers and evacuation procedures.
9. Fire extinguishers shall be inspected within the first ten (10) days of each month and a record kept on the card attached to the extinguisher.
10. Exit signs shall be maintained and exit doors shall be unlocked when a building is occupied. Passageways to exits shall be kept free of obstructions at all times.
11. Electric heaters shall be permitted only if properly guarded, have a grounding plug and are equipped to automatically cut off if tipped over. They must be located a considerable distance from combustible materials. Heaters shall be unplugged when not in use.

12. A three foot (3') clearance shall be maintained around electrical panel boxes.
13. In the event of a fire in your work area, follow the procedure outlined below:
 - (a) Call 911 as quickly as possible regardless of the size of the fire.

DO NOT RISK YOUR LIFE TRYING TO EXTINGUISH A FIRE WHICH MAY BE OUT OF CONTROL!!!

- (b) Employee may utilize a dry chemical, multipurpose, ABC type extinguisher on all types of fires if they are able to do so safely.
- (c) In the event an extinguisher is used, follow department procedures to have it recharged.

NOTE: All fire extinguishers will be checked, tested and certified on an annual basis by a licensed inspector.

F. Trips, Slips and Falls

1. Clean up all spills, drips or leaks immediately.
2. Correct the cause of spills or leaks.
3. Use only slip-resistant waxes and polishes.
4. Use non-slip paints, mats, treads or abrasive surfacing.
5. Provide signs or barriers for uncontrolled or temporary slipping hazards.
6. Maintain good housekeeping in the work place.

G. Lifting and Carrying Procedures

Material handling is part of many work processes and can involve mechanical and/or manual lifting. By reducing weight loads, using mechanical aids, rearranging the work place, and instructing employees in safe lifting techniques, the supervisor can reduce the chance that an employee will be injured from unsafe lifting. Steps in proper lifting are as follows:

1. Size up the load.
2. Do not attempt to lift it alone if you have any doubt regarding your ability to do so.

3. Make sure your footing is secure.
4. Bend knees and squat. Do not stoop.
5. Keep back as straight as possible.
6. Carry the load close to your body.
7. Lift with your strong leg muscles and arms, rather than your weaker back muscles.
8. Always be able to see over the load.
9. Use caution when lifting or pulling in an awkward position.
10. If the load interferes with your normal walking, get assistance.
11. Do not hesitate to ask for help in handling a load.
12. Use gloves or hand pads when handling rough or heavy materials.
13. Large objects being carried should be located on blocks to provide hand holds.
14. Do not stand under loads which are suspended by ropes, chains or cables.
15. Suspended loads shall not be unattended.
16. When two or more employees are lifting, pulling or carrying together, one man will give signals for the group.
17. Mechanical equipment shall be used to lift heavy loads whenever possible.

VI. PERSONAL PROTECTIVE EQUIPMENT

Employees whose jobs are performed in or near hazardous environments or in areas of heavy equipment are required to wear specific personal protective equipment. Personal protective equipment includes, but is not limited to, steel toed shoes; protective eye wear; hearing protection; hand protection; head protection; safety vests; respirators; body armor for police officers; and rubber goods for electrical exposures.

Supervisors shall instruct employees in the proper equipment to be worn for the particular job they are performing. All safety equipment shall be furnished by the City, at no cost, with the exception of steel toed shoes and prescription safety eye wear, which requires a portion

to be paid by the employee. Failure to use safety equipment and/or misuse of safety equipment is grounds for disciplinary action up to and including dismissal.

Safety Shoes - Employees required to wear steel toed shoes may purchase up to two (2) paid per year. The City will pay one-half of the cost of each pair. The employee's half may be paid through payroll deduction to be made from the second pay of two successive months.

Prescription Safety Glasses - The City will subsidize the cost of prescription safety glasses (those meeting ANSI A87.1 standards) for employees who are required to wear on-the-job eye protection and are restricted to prescription glasses. (Single vision: \$35.00; Bifocals: \$45.00)

Safety Vests - Reflective vests shall be worn by employees working in or near streets and roadways. Reflective jackets or coveralls will suffice.

Hard Hats - Shall be worn by employees exposed to the risk of head injury.

Hearing Protection - Ear plugs or muffs shall be worn by employees operating equipment such as street sweepers, chippers, jackhammers, chainsaws, mowers, string trimmers, and other equipment which have noise levels which may reach 90.

Respirators shall be worn by employees working in atmospheric areas containing chemicals or potentially hazardous gases and fumes.

Gloves - Appropriate work gloves shall be worn to protect against injuries due to rough materials handling and electrical hazards. Rubber gloves are required for handling of chemicals and latex gloves are required when an employee is at risk of body fluid contamination.

Back Support Brace - Employees with work tasks that involve lifting pushing, pulling or twisting motions have the option of using the back brace to prevent injury. Employees accepting the brace are required to wear it for work assignments involving the aforementioned motions.

VII. PERSONAL INJURY

All injuries, however minor, shall be reported to the supervisor as soon as possible, and in any event, within the work day of occurrence. In the event medical treatment is required, the supervisor will notify the Risk Manager and determination will be made regarding the location where the medical treatment takes place, except in the case of a serious injury, as described below:

Serious Injury - Massive bleeding, unconsciousness, heart attack The primary concern is to obtain immediate medical attention by calling 911. The supervisor and Risk Manager must be notified as soon as possible, regardless of the time of occurrence.

Non-Life threatening Injuries - Employees receiving injuries which are treatable in a physician's office will be treated at a designated physician's office, if the injury occurs between 8:00 a.m. and 9:00 p.m., Monday through Saturday. Injuries requiring immediate treatment not occurring between these hours may be treated at Albemarle Hospital Emergency Room upon approval of the supervisor. A supervisor's Report of Injury/Accident shall be completed by the supervisor and forwarded to the Risk Manager within 24 hours.

Workers Compensation - The City abides by the N. C. Workers' Compensation Act. General Statute 97-28 provides that during total disability due to an injury sustained in the course of employment, the injured employee is entitled to receive two-thirds of their average gross weekly salary. No compensation is paid for the first seven (7) days of disability unless the disability continues for more than twenty-one days. Employees may use sick leave for the first seven days. Compensation benefits may be subsidized by drawing one-third sick leave pay during disability.

VIII. VEHICULAR ACCIDENT

In the event an employee is involved in an accident while operating a City vehicle or motorized equipment, the following procedures should be followed:

1. Obtain medical attention for the injured person(s) as soon as possible.
2. The law enforcement agency within the geographic area shall be called to the scene regardless of the severity of the accident.
3. Notify the immediate supervisor as soon as possible after an accident. The supervisor will notify the Risk Manager so that the required insurance claims can be filed.
4. Do not leave the scene of the accident without the permission of the investigating officer or supervisor.
5. Do not make any verbal statement related to causation of the accident, except to the investigating officer or City management personnel.
6. Refrain from smoking at an accident scene, there may be spilled gasoline.
7. Employees involved in a vehicle accident while operating a City-owned vehicles shall be subject to appearance before the Safety Committee to determine accident preventability, in accordance with the Motor Vehicle Accident Review Policy.

IX. BASIC SAFETY RULES

1. Obey all safety rules and signs.
2. Following instructions. If you are not sure of the safe procedure, don't guess, ask your supervisor.
3. Do something about unsafe conditions. Correct them or report them right away.
4. Use the right protective equipment for the job.
5. Report accidents immediately. If you are hurt, get first aid promptly.
6. Use, adjust and repair equipment only if you are qualified and authorized to do so.
7. Use the correct tool for each job; use it safely, and for its intended purpose.
8. Get help to lift heavy loads.
9. Avoid horseplay on the job.
10. Keep your work area clean.
11. Stay alert to avoid unsafe conditions.

**UNLAWFUL HARASSMENT
POLICY**

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I. SEXUAL AND OTHER UNLAWFUL HARASSMENT POLICY

The City is committed to providing a work environment that is free of discrimination and unlawful harassment. Actions, words, jokes or comments based on an individual's sex, race, ethnicity, age, religion or any other legally protected characteristic will not be tolerated.

Sexual harassment includes but is not limited to unwelcome sexual advances, requests for sexual favors, sexual discussions or comments and other verbal or physical conduct of a sexual nature when:

- (a) submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- (b) submission to or rejection of such conduct 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 employee's work or performance or creating an intimidating, hostile or offensive environment.

This definition includes four categories of behaviors:

PHYSICAL includes assault, attempted rape, impeding or blocking movement or unwarranted touching.

WRITTEN includes sexually suggestive or obscene letters, notes or invitations as well as sexually graphic posters or literature.

VERBAL includes sexually derogatory comments, slurs, jokes, remarks or epithets or verbal flashing.

VISUAL includes leering, gawking, making sexual gestures, or displaying sexually suggestive objects.

Examples of sexual harassment include, but are not limited to deliberate, unwelcome touching; suggestions or demands for sexual involvement accompanied by implied or overt promises of preferential treatment or threats; pressure of sexual activity; continued or repeated offensive sexual flirtations, advances or propositions; continued or repeated verbal remarks about an individual's body or physical characteristics; sexually degrading words used towards an individual or to describe an individual; or the display in the workplace of sexually suggestive objects or pictures. Sexual harassment does not include personal compliments welcomed by the recipient or social interactions or relations freely entered into by employees or prospective employees.

Any other act of harassment that is demeaning to another person or group of persons on

the basis of gender, race, ethnicity, age, religion, disability, national origin or other legally protected characteristics is strictly prohibited.

Any employee who feels they have experienced or witnessed an incident of sexual or other unlawful harassment should promptly report the matter (preferably in writing) to his or her supervisor. If the supervisor is unavailable or the employee believes it would be inappropriate to contact that person, the employee should immediately contact the corporate personnel director. If the employee believes it would be inappropriate to contact the personnel director, then the employee should contact the Human Resources Director.

The City will investigate the complaint as promptly and confidentially as practical. The City will make every effort to correct, prohibit or remedy the harassment, and to protect the employee from further harassment. Retaliation against an employee who reports improper conduct in good faith is strictly prohibited.

Any employee engaging in sexual or other unlawful harassment will be subject to disciplinary action, up to and including termination.

Employees, supervisors and department heads should be sensitized to behavior that constitutes sexual harassment and the consequences of such actions, and they should be aware that such conduct will result in disciplinary action being taken against violators, and could lead to civil or criminal prosecution against violators.

SEX DISCRIMINATION GUIDELINES
FROM CIVIL RIGHTS ACT, 1964

Sec. 1604.11 Sexual Harassment

- (a) Harassment on the basis of sex is a violation of Sec. 703 of Title VII. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual, or (3) 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.
- (b) In determining whether alleged conduct constitutes sexual harassment, the Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.
- (c) Applying general Title VII principles, an employer, employment agency, joint apprenticeship committee or labor organization (hereinafter collectively referred to as "employer") is responsible for its acts and those of its agents and supervisory employees with respect to sexual harassment regardless of whether the specific acts complained of were authorized or even forbidden by the employer and regardless of occurrence. The Commission will examine the circumstances of the particular employment relationship and the job functions performed by the individual in determining whether an individual acts in either a supervisory or agency capacity.
- (d) With respect to conduct between fellow employees, an employer is responsible for acts of sexual harassment in the workplace where the employer (or its agents or supervisory employees) knows or should have known of the conduct unless it can show that it took immediate and appropriate corrective action.
- (e) An employer may also be responsible for the acts of non-employees, with respect to sexual harassment of employees in the workplace, where the employer (or its agents or supervisory employee) knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing these cases the Commission will consider the extent of the employers' control and any other legal responsibility which the employer may have with respect to the conduct of such non-employees.

- (f) Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned.
- (g) Other related practices: Where employment opportunities or benefits are granted because of an individual's submission to the employer's sexual advances or requests for sexual favors, the employer may be held liable for unlawful sex discrimination against other persons who were qualified for but denied that employment opportunity or benefit. [Sec. 1604.11 reads as amended, 45 F. R. 74677, effective November 10, 1980.]

FACT SHEET

SEXUAL HARASSMENT

The Equal Employment Opportunity Commission has long recognized that sexual harassment, like harassment in an employment context resulting from discrimination on a prohibited basis, is an unlawful employment practice in violation of the Civil Rights Act of 1964, as amended. To reaffirm its position that sexual harassment is sex discrimination, the Commission amended the existing Guidelines on Discrimination Because of Sex to deal specifically with sexual harassment. The Guidelines were adopted in final form and became effective upon publication in the Federal Register on November 10, 1980.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating hostile, or offensive work environment.

PATTERNS OF HARASSMENT ON THE BASIS OF SEX

Sexual Harassment can occur in a variety of circumstances and encompass many variables. Although the most widely recognized pattern is that in which a male supervisor sexually harasses a female employee, this form of harassment is not the only one recognized by EEOC. The Commission's view of sexual harassment includes, but is not limited to, the following considerations:

- (1) A man as well as a woman may be the victim of sexual harassment, and a woman as well as a man may be the harasser.
- (2) The harasser does not have to be the victim's supervisor. (S)he may also be an

agent of the employer, a supervisory employee who does not supervise the victim, a non-supervisory employee (co-worker), or, in some circumstances, even a non-employee.

- (3) The victim does not have to be of the opposite sex from the harasser. Since sexual harassment is a form of sex discrimination, the crucial inquiry is whether the harasser treats a member or members of one sex differently from members of the other sex. The victim and the harasser may be of the same sex where, for instance, the sexual harassment is based on the victim's sex (not on the victim's sexual preference) and the harasser does not treat employees of the opposite sex in the same way.
- (4) The victim does not have to be the person at whom the unwelcome sexual conduct is directed. (S)he may also be someone who is affected by such conduct when it is directed toward another person. For example, the sexual harassment of one female employee may create an intimidating, hostile, or offensive working environment for another female (or male) co-worker.
- (5) A finding of unlawful sexual harassment does not depend on the victim's having suffered a concrete economic injury as a result of the harasser's conduct. For example, improper sexual advances which do not result in the loss of a promotion by the victim or the discharge of the victim may, nonetheless, constitute sexual harassment where they unreasonably interfere with the victim's work or create a harmful or offensive working environment.
- (6) There is no requirement that the victim complain to the harasser or report the sexual harassment to his/her supervisor or employer. However, the employer will not be held responsible for harassment by a co-worker or non-employee unless the employer knew or should have known of the conduct and failed to take immediate and appropriate corrective action. Similarly, the employer will not be held responsible for sexual harassment by a supervisor which does not result in economic or tangible harm unless the employer knew or should have known of the conduct and failed to take immediate and appropriate corrective action. But if the employer fails to communicate to employees an explicit policy against sexual harassment, and if it provides no available means by which employees can make their complaints known to officials in a position to correct the problem, then lack of knowledge will not shield the employer from liability.

CASE-BY-CASE BASIS

The Commission will look at the record as a whole and at the totality of the circumstances, such as the nature of the sexual advances and the contest in which the alleged incidents occurred. The determination of the legality of a particular action will be made from the facts, on a case-by-case basis.

**EQUAL EMPLOYMENT
OPPORTUNITY/NONDISCRIMINATION**

EQUAL EMPLOYMENT OPPORTUNITY

The City provides equal employment opportunities for all qualified persons. The City will not discriminate against applicants or employees on the basis of race, color, religion, sex, pregnancy, marital status, national origin, age or disability.

In furtherance of this policy the City prohibits any retaliatory action of any kind taken by any employee of the City against any other employee or applicant for employment because that person made a charge, testified, assisted or participated in any manner in a hearing, proceeding or investigation of employment discrimination.

Responsibility for implementing and ensuring equal opportunities is hereby assigned to the City Manager and/or other persons designated by the manager or City Council to assist the implementation of this policy statement.

The City shall develop a self-evaluation mechanism to provide for periodic examination and evaluation. Periodic reports on of Equal Employment opportunities will be presented to the City Council by the City Manager.

The City is committed to this policy and is aware that with its implementation, the City will receive positive benefits through a diverse work force and greater utilization and development of all its human resources.

Workplace Violence Prevention Policy

I. OBJECTIVE

The City of Elizabeth City is concerned with the safety of both employees and the public. We want to maintain a workplace that is free of violence. We believe that is the obligation of every employee to contribute to the safety of the work environment by refraining from threats, violence, or activities that may provoke violence, by reporting threats and by conducting City business with respect for the all City employees and for all customers of City services.

To promote a safe workplace, we require the reporting of possible internal and external threats to the safety of employees and citizens. To facilitate workplace safety, we provide procedures to respond to threats and/or acts of violence and are working to educate all employees in ways to prevent violence.

II. DEFINITIONS

Workplace violence includes, but is not limited to, intimidation, threats, physical attack, unauthorized weapons, or property damage.

Intimidation includes, but is not limited to, threats, stalking, or engaging in actions intended to frighten or coerce the other person.

Threat is the expression of intent to cause physical or mental harm. An expression constitutes a threat without regard to whether the party communicating the threat has the present ability to carry it out, without regard to the overt or subtle nature of the expression, and without regard to whether the expression is made on a present, conditional, or future basis. In determining whether the action was intended as a threat, the totality of the circumstances will be considered.

Physical Attack is unwanted or hostile physical contact such as hitting, fighting, pushing, shoving, throwing objects, grabbing, holding, touching, or any other harsh physical contact. A physical attack does not include physical contact, which is performed in the course of an employee's City responsibilities. In determining whether physical contact constitutes a physical attack, the totality of circumstances will be considered.

Property Damage is intentional damage to property, which includes property owned by the City, employees, visitors, or vendors.

A **weapon** is any object used to attack or intimidate another. Prohibited weapons include, but are not limited to, firearms, explosives, ammunition, knives, pocket knives, switchblades, or other dangerous or deadly weapons. Use of other items as weapons (such as tools or furniture) is also prohibited. Tools used in the course of duty, such as axes, hammers and similar instruments, are considered weapons when used as a weapon of aggression.

III. APPLICABILITY

This policy applies to all City own employees, including regular and contract, and covers employees while engaged in any activity related to their employment with the City, whether on City property or elsewhere.

The policy does not include actions related to or situations arising out of actions which are a necessary part of the performance of one's job. For example: fire, police, and other response employees acting with an appropriate use of force in the line of duty are exempt from this policy.

Some types of workplace behavior may be inappropriate but do not constitute workplace violence as defined in this policy. Excluded from this policy are: unlawful harassment (refer to the City's Sexual Harassment policy).

Allegations of the use of excessive force in the course of the jobs of emergency personnel (refer to departments' policies and procedures).

IV. WHEN INCIDENTS OCCUR

It is a violation of the City's ordinances and this policy to:

- (a) engage in threats, intimidation, physical attacks, and other forms of workplace violence as defined in this policy; or
- (b) use and/or possess an unauthorized weapon during work time or while in any place related to the individual's employment.

An employee who believes that he or she has been the target of workplace violence should report this to the appropriate supervisor or City Manager, to the Police Chief, or to the Human Resources Director. In emergency situations the employees should call the Police at 911.

V. RESPONSIBILITIES:

1. Supervisors and management have two key roles under this policy - prevention and incident response:

- (a) prevention of violence in the workplace:

Early recognition of a potentially threatening or violent situation is the key to protecting employees and the public from violence. The City will train managers, supervisors, and employees to understand what workplace violence includes and to recognize the signs of a potentially violent situation. Each supervisor is expected to learn the steps to prevent incidents of workplace violence and the measures to be taken if such an incident occurs.

Vigilance to signs of potentials for violence may prevent a future incident. Supervisors should encourage employees to seek help for problems that may lead to an act of violence or aggression. The Employee Assistance Program is a source for confidential and free counseling and referral services for City employees and their dependents.

(b) response to a report of violence:

Supervisors, when notified of an incident, should respond in prompt and effective manner, including conducting a complete and prompt investigation, applying disciplinary action as appropriate, and following-up with any affected staff.

Incidents involving non-employees (for example, involving a spouse or member of the public making threats against an employee) should be taken seriously and followed up on, just as incidents with City employees.

Each employee has the personal responsibility to abide by the violence in the Workplace policy every time s/he comes to work. In addition, every employee has the responsibility to report any suspicion or knowledge of a current or potential incident of workplace violence to a City supervisor.

VI. CITY RESPONSE TO ACTS OF VIOLENCE IN THE WORKPLACE:

Some incidents are limited in scope and may be responded to by a brief investigation with the involved parties and witnesses. Others require a more thorough investigation and may involve the City Manager, City Attorney, Police Chief or other staff, Human Resources Department staff, and others in determining the appropriate response.

The kinds of incidents where investigation and response are definitely called for include:

- (a) where threatening behavior is displayed. For example, a weapon is shown or explicit threats are made against specified individuals.
- (b) a physical attack occurs in the course of work involving one or more employees. These actions can include fights, shootings, or knifings.
- (c) other behaviors that show an employee is crossing the boundary between what is acceptable physical behavior in the workplace and what is not. For example, “horseplay” with a violent edge, continued picking on a co-worker, a pattern of aggressive and hostile response to supervisors and co-workers.

All behaviors that could be considered criminal acts should be reported to the Police; Police investigations may supplement or supersede administrative procedures.

Even in the case of limited scope incidents, supervisors are encouraged to seek advice from the Police Department, from the Employee Assistance Program staff, or Human Resources

Department staff in how to handle and diffuse situations.

A Workplace Violence Reporting Form is available for recording information about workplace violence incidents.

VII. RESPONSE AND SANCTIONS

City staff should communicate and enforce an atmosphere of zero tolerance for violence in the workplace and quick response to these incidents.

A violation of this policy will be considered detrimental personal conduct as outlined in the City of Elizabeth City Personnel Ordinance. A physical attack on any employee combined with use of a weapon, subject to investigation and review, will result in termination.

Any physical attack, whether in self-defense, with or without a weapon, or property damage to any City property, may result in some form of disciplinary action. Aggressors will receive more severe sanctions than the attacked. Other violations, including threats and harassment, will be punishable by appropriate disciplinary action, up to and including termination.

WORKPLACE VIOLENCE INCIDENT REPORTING FORM*

Report completed by:

Name: _____

Title: _____ Department: _____

Name of person alleged to acting violent, making threats, or showing other potential violent behavior (citizen or employee): _____

Date and place where incident occurred? _____

What began the situation that included the act or threat? _____

Who or what was threatened? _____

What was said or done? _____

Did physical action accompany the threat? If so, describe. _____

What weapons were used, if any? _____

Who else was present? Include name (if an employee) department, address, and phone number:

Has this or a similar incident happened before? When and where? Was it reported?

Include additional relevant information:

What action do you believe should be taken / or what action was taken?

Signature of employee reporting incident:

Signature: _____

Date: _____

Signature of supervisor/official notified:

Signature: _____

Date: _____

* This form may be used as a guide for documenting incidents. If the incident involves a non-employee, complete, sign, and place a copy in your files; a copy may also be provided to the staff of the Police Department. If the incident involves an employee but is immediately resolved (i.e., a fight resulting in termination or an incident of harassment where the employee is counseled by the supervisor), place a copy in your files and sent to Human Resources with other documentation for action taken.