



## EMPLOYEE MANUAL

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## **Acknowledgement of Receipt of Employee Manual**

I have received a copy of the City of Martinsville’s Employee Manual. This manual replaces any employee manuals or guides that I may have received as part of my employment with the City. The manual has been prepared from relevant laws, regulations, and policies, and outlines my privileges and obligations as an employee. I will become familiar with the specific guidelines in the manual because it summarizes specific procedures that may affect my daily work. If I have any questions or need further assistance with matters covered by it, I will contact my supervisor, department director, or the Human Resources Office.

This manual is subject to change without notice. It is understood that revisions in policy, procedure, or employee benefits will supersede or eliminate those found in this manual, and I will be notified of such changes through normal communication channels.

I agree to comply with the guidelines, policies, and procedures of the City. Nothing in this manual is intended or interpreted to create a contract (stated or implied) or guarantee of employment for any specific period of time or for any specific procedures or type of work. This means that either the City of Martinsville or I may end the work relationship at any time for any reason. This practice is not a change from long-standing City policy and is only referred to here to avoid any misunderstanding.

I further understand no supervisor, manager or representative of the City, other than the City Manager, can make any agreement guaranteeing employment for any specified period. I also understand any such agreement, if made, will not be enforced unless it is in writing and is signed by the City Manager.

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Print Name of Employee

Employee’s Signature/Date

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Print Name of Witness

Witness’ Signature/Date

After obtaining the employee’s signature, this completed form will be retained in the Human Resources Office. It will become a part of your employee personnel file.

## INTRODUCTION

### PURPOSE AND SCOPE OF EMPLOYEE MANUAL

This employee manual is a source of information about your employment with the City. While no set of written policies or procedures can cover every possible situation, this manual provides overall guidance for practical, consistent decision-making. The City Manager may make exceptions to policy in special or unusual situations which would be in the best interest of the City. If you have questions about anything in the manual, please discuss them with your supervisor, department director, or the Human Resources Office.

The personnel policies contained in this manual supersede any existing or conflicting statements, practices, procedures, or policies in effect prior to the date of the manual's publication, unless covered elsewhere. The policies, procedures, benefits and other programs contained in the manual may be changed or modified by the City at any time in accordance with Council policy, federal or state laws, or appropriate human resources practices. All revisions to this manual are issued and maintained by the Human Resources Office and will be provided to the City Council prior to the distribution to employees.

Your department director is responsible for maintaining a current employee manual that contains all revisions. From time to time, you will be provided with various notices and manual updates. Because of the nature of the operation of some departments under the City Manager's jurisdiction, separate rules and regulations to fit specific conditions may be necessary. In which case, the supplemental rules and regulations will be approved by the City Manager and considered part of this manual.

Nothing contained in this manual should be intended or interpreted to create a contract or guarantee of employment (express or implied), specific procedure or type of work, or benefits for any specific period of time. Either you or the City of Martinsville may terminate the employment relationship at any time, for any reason, with or without cause or notice. No supervisor, manager, or representative of the City, other than the City Manager, has the authority to enter into any agreement with you for employment for any specified period or to make any promises or commitments contrary to the above. Any employment agreement entered into by the City Manager shall not be enforceable unless it is in writing and signed by the City Manager.

This employee manual applies to all employees whose job descriptions and position classifications fall under the jurisdiction of the City Manager and are established within the Classification and Pay Plan. The manual *does not* pertain to constitutional offices of the Treasurer, the Commissioner of Revenue, the Sheriff, the Commonwealth's Attorney, the Clerk of the Circuit Court, and the Office of the Registrar. It *does not* apply to employees of the Blue Ridge Regional Library, the Piedmont Regional Criminal Justice Training Academy, the West Piedmont Business Development Center, Southern Virginia Recreation Facilities Authority, and the Dan River Alcohol Safety Action Program.

The City wishes you every measure of success as you meet the challenges ahead of you.

# **CHAPTER I - PUBLIC SERVICE IN THE CITY OF MARTINSVILLE**

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## **General Government**

The Code of Virginia and the City Code establish the decision-making authority and responsibility of the City of Martinsville. A five-member City Council serves as the lawmaking body of the City. At-large elections are held every two years and are for staggered four-year terms. Official Council meetings are conducted on the second Tuesday (generally a work session) and fourth Tuesdays of each month in Council Chambers; Neighborhood Town Meetings may be held periodically in various locations. The Council sets the annual tax rate, adopts budgets for all City services, and establishes various programs and policies.

The City Manager serves at the pleasure of City Council, carries out the policy decisions of City Council, and oversees day-to-day governmental operations. The Manager keeps the City Council informed of the City's financial condition and future financial needs, prepares reports concerning the affairs of the City, and investigates and acts on complaints. Department directors and employees under the City Manager's jurisdiction are appointed by and report directly to the City Manager or his/her designee.

The Director of each department administers and manages all departmental functions, including the establishment and communication of work expectations, the development of operating procedures, the scheduling of activities and hours of work, the management of employee performance, and the continuation of a safe, non-discriminatory working environment.

## **Our City History**

Named for General Joseph Martin, the Town of Martinsville was established in 1791 from 50 acres of land in Henry County. The Town was incorporated in 1873. Due to an industrial boom and the railroad, the Town had reached a population of 5,400 by 1924. The City was incorporated in 1928 as a City of the Second Class. By 1941, Martinsville had become a City of the First Class, and the population had increased to better than 10,000. The City's present population is approximately 13,821 per the 2010 Census and covers 11.2 square miles in size.

## **Shared Vision Statement**

A vision statement says something about what an organization wants to become and gives direction for the future. The following statement was developed jointly by City Council and Department Directors regarding the City's vision for the future:

“As faithful stewards of the public trust, we will create in partnership with the citizens of Martinsville and the surrounding region, a strong, innovative, and unified community where every citizen may have the opportunity to become self-sufficient with satisfaction, pride and a high quality of life.”

## **Equal Employment Opportunity**

The City is committed to a work environment where all individuals are treated with respect and dignity and relationships are business-like and free of bias, prejudice and harassment. The City also wants to hire and promote the best qualified individuals available. Any person who seeks a position and those who currently work for the City will not be denied employment or otherwise discriminated against or given preference in any aspect of the employment relationship on the basis of race, color, religion, age, gender, national origin, political affiliation, and disability except when certain physical and mental

requirements are a bona fide occupational qualification necessary to perform the essential functions of the job. The City will do everything possible to ensure that all personnel actions, advancement, transfer, compensation and benefits, training, disciplinary action, termination, and the handling of grievances are based on individual merit and qualifications. Employees are encouraged to report all perceived incidents of discrimination or harassment and the City will investigate any such complaint.

Retaliation against any individual who reports discrimination or harassment or participates in an investigation is prohibited. If an employee believes that he or she has not been afforded equal employment opportunity, established procedures outlined in Chapter IX of this manual should be followed. Any City employee who fails to comply with this policy is subject to disciplinary action up to and including termination. A complete Equal Employment Opportunity Statement for the City is on file in the Human Resources Office.

### **General Rules of Conduct**

The proper conduct of all employees is necessary to ensure a safe, productive and pleasant working environment. Employees will always use good judgment, discretion, and the highest standards of ethical conduct in carrying out City business. While on City of Martinsville premises or while conducting City business off the premises, rude, profane, or obscene remarks or gestures made to or about clients, customers, fellow employees, or management will not be tolerated, regardless of circumstances or location. Certain guidelines are used to govern improper conduct and to provide uniform disciplinary action when necessary. Employees are expected to follow the established guidelines listed below.

- To know and observe all established City policies and procedures
- To perform the job assigned as instructed by the supervisor
- To report to work on time and to devote full attention to work while on duty
- To know and abide by the safety rules of the City for the employee's own protection and that of fellow employees and the public
- To be fair, courteous and cooperative in dealing with the public and with fellow employees

### **Human Resources Office**

The Human Resources Office administers and interprets the personnel policies of this employee manual to ensure that they are in compliance with Federal, State, and local laws. More importantly, the Human Resources Office is a service department that exists primarily to support all of us as we work together. Questions, complaints and concerns related to employment should be directed to the Human Resources Office after they are first discussed at the department level.

The Human Resources Office maintains a personnel file for each City employee. This file contains legally required information and is the official record of all employees with the City of Martinsville. Personnel files are available for inspection only by the employee and the employee's supervisor or individual(s) authorized by the employee or supervisor. An employee may review his or her file by contacting the Human Resources Office for an appointment; a representative from the Human Resources Office must be present during a review of a personnel file. The office is open to the public from 8:30 AM until 5:00 PM.

Any changes of address, name, telephone number, dependent status, or other information should be reported to the Human Resources Office so that personnel records may be kept up to date.

## **Privacy Policy**

The City believes in the right to privacy with regard to employee's protected health information. The Human Resources Office will only use, disclose and maintain the minimum amount of protected information that is required for administrative functions performed on behalf of the group benefit plans, including benefit enrollments and changes, accounting and billing functions, budgeting, and auditing. Information about individual medical conditions, treatment, or claims is not received or used by the group benefit plan. This type of protected information remains with business associates who may require it for the purpose of processing claims. Questions regarding procedures or information maintained on employees should be directed to the Human Resources Office.

## **CHAPTER II - EMPLOYMENT PROVISIONS**

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### **Recruitment and the Application Process**

The Human Resources Office develops and maintains effective recruitment procedures that attract candidates who are representative of the community and who possess the education, skills and abilities to meet the current and future needs of the City. When a position is to be filled from outside of the department, the department director will notify the Human Resources Office of the need to advertise the position and seek qualified applicants for employment. The job opportunity/announcement is publicized in a designated area of each City department and other locations that are available to the general public, and will include the minimum requirements, range of pay, normal working hours, positions are open until filled. Qualified internal and external candidates will be considered. Applications of individuals who possess at least the minimum qualifications shall be referred to the department director for consideration. Once a hiring decision is made and the candidate has reported to work, applicants who were not selected for the position will be notified.

Employment applications are accepted for advertised positions only and remain in an active file in the Human Resources Office for a period of twelve months. During this time, the applicant is responsible for making sure that their application contains current information. Applicants need not reapply for other job opportunities during this twelve-month timeframe, but may contact the Human Resources Office and request that their application be considered for other posted positions. After the twelve-month period, applicants must complete a new employment application.

### **Types of Appointment**

City employees may be appointed on a regular, temporary, or part-time basis. Department directors will appoint employees according to hiring procedures approved by the City Manager and maintained by the Human Resources Office.

***Regular Full-time Appointment*** – An appointment made to a position whose classification is listed in the Classification Plan. Classified positions usually have no fixed duration of service and employees are eligible for employee benefits. Such appointments are subject to an introductory period.

***Temporary/Part-Time Appointment*** – An appointment that will end upon completion of a specific project or assignment, generally up to six months in any twelve-month period or when the work is occasional or sporadic, seasonal, or up to 32 hours per week.

Temporary and part-time employees are paid on an hourly basis and are not eligible for benefits. Time completed in a temporary capacity may be counted as part of the introductory period should a regular appointment be available at the end of the temporary assignment. Individuals hired from outside

temporary agencies for specific assignments are employees of that agency and not the City of Martinsville.

### **Age Limitations**

To be considered for a regular position, applicants must be at least eighteen (18) years of age and meet the established minimum job requirements as provided on the job description. Applicants for job opportunities in the Police and Fire/EMS Department must meet the age requirements for the particular position. Specific information about each vacancy can be obtained by contacting the Human Resources Office.

### **Physical Standards and Other Requirements**

Before an employment offer can be extended, an applicant must be able to perform the essential functions of the job with or without reasonable accommodation and pass a drug test. For certain positions, successful completion of a post offer medical examination performed by a City chosen physician will be necessary. Periodic medical examinations may also be required in those positions where physical standards must be maintained. Background investigations and local/state police checks will also be required and will not violate any federal or state equal opportunity law or regulation. Due to the length of time required to complete certain background investigations, a conditional offer of employment may be extended, subject to the successful completion of the investigation.

### **Criminal Convictions**

The City of Martinsville does not discriminate unlawfully against persons who have been convicted of criminal offenses. A prior conviction does not automatically exclude an applicant from employment with the City. The nature and the offense of a past conviction is weighed and considered in relation to the duties of the position desired.

### **Operation of a City-Owned Motor Vehicle**

Some positions require the operation of a City-owned motor vehicle as an essential function of the job. Prior to their appointment, applicants may be required to provide a copy of their valid driver's license and Division of Motor Vehicles driving record, and where necessary, a copy of the applicant's Commercial Driver's License. Employees must report any restrictions, limitations, or loss of their driving privileges to their supervisor. (See Chapter XI, "City Vehicles and Equipment" and Administrative Policies GA-13, GA-14 and GA-15.)

### **Residence**

Pursuant to the City Charter and by Resolution of the City Council, the City Manager and other specified management employees must reside within the corporate boundaries of the City no later than twelve months after the commencement of employment and maintain their City residence during the term of his or her employment. (Reference documents are on file in the City Manager's Office.) All other employees of the City are encouraged to become residents of the City. Departments that have a need for essential work to be performed outside regularly scheduled hours or during emergencies may also require that some employees reside within a reasonable distance of the City.

### **Work Authorization**

The Immigration Reform and Control Act makes it illegal for employers to employ anyone who is not authorized to work in the United States. Within three (3) days of beginning work, employees must

provide one official document that establishes BOTH their identity and employment eligibility OR one document that establishes the employee's identity AND one document that establishes employment eligibility to work in the United States.

### **Secondary Employment**

An employee of the City may be self employed or may take occasional or part time jobs provided there is no conflict with working hours, loss of efficiency, or conflict of interest with City. Each department director shall develop and maintain a procedure regulating outside employment, subject to approval of the City Manager. Employees who wish to accept outside employment must make sure that it conforms to department policy. Conflicting outside employment shall be grounds for disciplinary action, up to and including termination. An employee is prohibited from working at outside employment while on approved sick, FMLA leave, or injury leave.

### **Employment of Relatives**

No relative of a member of City Council, the City Manager, or the Assistant City Manager may be employed or assigned to any type of position under the jurisdiction of the City Manager. In addition, two members of an immediate family cannot be employed in the same department. Also, two members of an immediate family cannot be appointed or assigned to a position where one employee would have influence over the other's employment, promotion, salary administration or other management or personnel considerations. Situations that violate this provision but which were in existence prior to the issuance of this manual will be allowed to continue. Immediate family includes spouse, parent (including step-parent), mother-in-law, father-in-law, children (including step-children and foster children), brother, sister, step-brother, half-brother, step-sister, half-sister, sister-in-law, brother-in-law, son-in-law, daughter-in-law, grandparent, grandchild, aunt, uncle, niece, or nephew of the employee and his/her spouse.

### **New Employee Orientation**

At the beginning of their employment, all new employees must attend an orientation conducted by the Human Resources Office. During this time, benefits and enrollment requirements, compensation, and City policy are discussed. Prior to beginning work, all new employees must complete a Compensatory Time Agreement, where required.

The new employee's supervisor or departmental representative is responsible for conducting an on-the-job orientation. The employee's work schedule, specific responsibilities, and safety requirements will be discussed at length. During this time, the employee will be given a copy of their official job description and any specific departmental policies and procedures that apply.

## **CHAPTER III - WORK HOURS AND ATTENDANCE**

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### **Attendance and Absenteeism**

An essential function of all positions is the requirement for regular and predictable attendance. Absences, especially those that are unexpected, can be a problem and place a burden on co-workers and hinder effective City operations. The determination of what is excessive tardiness and absenteeism, or attendance that is not regular and predictable, is reserved solely for City management. Excessive tardiness and absenteeism may result in disciplinary action up to and including termination. Any absence of three

(3) consecutive workdays without prior approval from the supervisor may be considered a voluntary resignation.

### **Reporting Requirements**

Employees are expected to personally report any unscheduled absence to their immediate supervisor prior to the beginning of the assigned work period. Any unauthorized absence will be treated as an absence without pay and may be grounds for disciplinary action, up to and including termination of employment. If it is determined that the employee had a valid reason for failing to get prior approval for the absence, the time off may be approved retroactively. Questions regarding about how an employee should report an absence from work should be directed to the supervisor.

### **Working Hours**

Generally, full-time employees, except those in public safety departments, work a forty-hour work week. Administrative employees work from 8:00 AM to 5:00 PM; with offices open to the public from 8:30 AM until 5:00 PM, Monday through Friday. Because of the nature of work in some departments, special work hours may be required. A director may adjust, increase, or decrease the normal work schedule as operations demand; however, schedule changes will not be used to penalize an employee. The supervisor will provide each employee with a daily schedule as changes are to be implemented and with as much advance notice as possible.

Subject to the advance approval of the supervisor and department director, employees may work an alternate or flexible schedule in order to care for a child or adult with special needs, provided the forty-hour minimum and specific requirements are met. Employees must account for hours not worked through the use of sick leave, annual leave, or other approved leave.

### **Lunch Periods**

Employees should check with their supervisor to determine when their official lunch period is scheduled. Employees who are scheduled for an unpaid meal break must immediately notify their supervisor if their meal break is interrupted. Employees may not voluntarily work through their unpaid meal break to finish work without approval of their supervisor.

### **Inclement Weather**

All municipal facilities will remain open for business during normal business hours regardless of weather conditions. Only under the most extreme conditions will the City Manager close all or any part of the City offices and operations, should a situation exist that warrants such action. Department directors will determine those employees whose jobs require the performance of operations necessary to the public welfare and safety even during an emergency or inclement weather. These “essential personnel” will be required to report for and remain on duty regardless of the City Manager’s decision to close City offices for a full or partial day.

Employees must use their own judgment as to whether it would be unsafe to drive to work and should not rely on transportation being provided by the City. If an employee does not report to work during those hours that municipal facilities are open for business, compensatory time, annual/vacation, or leave without pay must be used to cover the duration of the absence. In the event the municipal facilities close early (generally, this would pertain to general public use only) employees must again use compensatory time, annual/vacation, or leave without pay to cover the duration of absence if they choose to leave work early or department manager authorizes employee to leave early. An employee who is on

pre-approved vacation or sick leave during the period of inclement weather will be charged accordingly with proper annual/vacation or sick leave hours.

### **Work Week and Fair Labor Standards Act**

The City's overtime policies comply with those established under the Fair Labor Standards Act or (FLSA). The Fair Labor Standards Act does not limit the number of hours that an employee may work. It simply requires that overtime pay must be paid at a rate of not less than one and one-half times a non-exempt employee's regular rate of pay for each hour worked in a workweek in excess of the maximum hours required. This usually means overtime for hours in excess of 40 per week.

To be considered exempt from overtime, an employee's duties must fit into a specific category as determined by the FLSA. The duties performed by the employee will be designated as either "non-exempt" or "exempt", as defined in this Chapter, and used to determine if the employee is eligible for overtime compensation. Prior to their appointment, a new employee will be informed of their overtime status under the Fair Labor Standards Act. Employees whose primary duty is law enforcement or fire protection provide services on a seven (7) day, 24-hour-per-day basis and may work a special work period of up to 28 days, as permitted by Section 7 (k) of the FLSA.

In order to meet the business needs of the City, an employee may be required to work beyond the daily or weekly work schedule, or to return to work after leaving the work site for the day. Department directors will arrange and control the work schedules in their department so that, to the extent possible, required work will be accomplished without overtime. No overtime is to be worked except as authorized by the department director or designee.

***Non-exempt Employees*** – Employees who are required to be paid overtime at the rate of time and one half times their regular rate of pay or granted compensatory time off for all hours worked beyond forty hours in a work week, in accordance with applicable federal wage and hour laws.

***Exempt Employees*** – Employees who are not required to be paid overtime, in accordance with applicable federal wage and hours laws, for work performed beyond forty hours in a work week. Executives, professional employees, outside sales representatives, and certain employees in administrative positions are typically exempt. Exempt employees who work in excess of their normal workweek do not accumulate overtime or compensatory time.

### **Standard Work Week/Work Period**

Unless specifically exempt from the FLSA, as outlined in the Act, the standard work week for all employees shall consist of seven consecutive calendar days, as established by the City Manager or department director. Uniformed Fire/EMS personnel assigned to 24-hour shifts or uniformed Police personnel may have an alternate work schedule, as needed, to effectively deliver services and may be eligible for a special exception under Section 7(k) of the Act. Where implemented, a standard work period of no less than seven or more than twenty-eight consecutive days may be established by the City Manager or department director consistent with the requirements of the Act.

### **Hours Worked**

When properly authorized by the department director, all hours that a non-exempt employee is permitted to work are subject to compensation. The overtime compensation will begin for all hours worked over forty (40) during the established workweek, except where applicable under 7(k) of the Act or as required by Virginia Code. If an employee is expected to work overtime, the supervisor will give the employee as much advance notice as possible.

## **Compensatory Time Off for Non-Exempt Employees**

A non-exempt forty-hour employee who is required to work overtime in excess of the maximum hours required will be compensated in the form of time off with pay at the rate of one and one-half hours for each hour of employment for which overtime compensation is required. The City will allow a non-exempt employee to use the time earned within a reasonable period and at the discretion of management, provided that the time off does not adversely disturb the operations of the department. The Fair Labor Standards Act does not generally require that an employee be paid overtime compensation for hours worked in excess of eight per day, or for work on Saturdays, Sundays, holidays or regular days off so long as the maximum number of hours are not exceeded.

It is the responsibility of departmental management to monitor the use of compensatory time off. Unless otherwise authorized by the City Manager, regular non-exempt employees cannot carry over more than forty hours of accumulated compensatory leave, or fifty-six hours of accumulated compensatory leave for Police, Fire & EMS personnel, beyond June 30 of each year. To cover approved absences, department directors may require that employees use compensatory time in place of sick or annual leave. Upon termination of employment, a non-exempt employee shall be paid for any unused compensatory time at their current rate of compensation.

In certain circumstances, as determined by the department director and in consultation with the Human Resources Director and City Manager, monetary payment for overtime may be authorized. Subject to available funds, the premium will be an additional half-time for each overtime hour as provided in the Fair Labor Standards Act and Federal Regulations Part 778.114 under the Fluctuating Work Week method. In determining overtime payment for emergency work performed outside the employee's work schedule, time *not worked* due to a holiday, vacation, or sick leave *will be counted as hours worked*.

## **Record of Hours Worked**

Non-exempt employees must accurately record and report all hours worked and time not worked on an official time sheet. The appropriate supervisor will verify and approve the hours worked and forward information to the Finance Office on appropriate forms. Both exempt and non-exempt employees must account for hours not worked through the use of sick leave, annual leave, or other approved leave.

## **Partial Pay**

A full-time introductory or regular non-exempt employee who works less than the normal pay period and has insufficient leave to cover any absences from work shall be paid based on the number of hours worked out of the total number of working hours in the month. An hourly non-exempt employee who works less than a normal pay period shall be paid at their established hourly rate based on the actual hours worked during the pay period.

## **Travel Time**

Normal home to work and back home travel time is not normally considered work or paid time. This is true whether the employee works at one location or many. Travel time between different work sites during the day is considered work time. When an employee is sent to work or attend a meeting requiring an overnight stay, only the travel time that falls within the regular scheduled work hours is compensable time unless the employee is working while traveling, in which case all the hours are compensable. Time spent traveling on off days during the employee's regular working hours is compensable time.

## **Standby Time**

Some City departments have a need for essential work to be performed outside regularly scheduled hours. Standby is a *pre-planned status* where specific employees are required to be available to respond to after-hours, holidays, and weekend emergencies within a specified period of time. This section does not apply to situations where essential work is required and performed as an extension of the employee's normal workday. To assure availability in the event of an emergency, departments will establish standby procedures and guidelines that outline specific expectations and requirements. Employees on standby status are not restricted in the use of personal time, but must be available to promptly return to work when contacted by pager, radio, telephone or other prearranged means. A non-exempt employee assigned to standby duty will be paid one hour of additional standby pay per day, at the employee's regular rate of pay, provided the employee remains available and is responsive to duty calls.

## **Call-Back**

Non-exempt employees who are required to report to work outside the employee's normally scheduled hours or on holidays will be compensated for a minimum of three hours. If the actual hours worked exceed the three-hour minimum, the employee will be compensated for all hours worked. Callback time will commence from the time the employee leaves his/her premises and returns to the original location. If the employee is called back while in route to or from work, time worked will be credited as an extension of the normal workday and the three-hour minimum will not apply.

Should the employee be called back a second time within the original three (3) hours of the first call, an additional three (3) hour credit for the new call back will not be granted. Calls received and time worked by an employee in a callback situation must be reported to the employee's supervisor on the next regular workday. The nature and amount of time worked during on-call duty are subject to verification by supervisors. When discrepancies are noted, further justification may be required.

## **Emergency Response**

In the event a situation arises that, in the judgment of management, requires an extraordinary response effort, any and all employees under the jurisdiction of the City Manager may be contacted to report to work. Under these circumstances, non-exempt employees will be compensated in the same manner as described under the "call-back" provision in this Chapter and in accordance with the Fair Labor Standards Act.

## **Lectures, Meetings, and Training Time**

Attendance at lectures, meetings, training programs and similar activities will not be counted as working time if **all** the following four criteria are met:

- attendance is outside of the employee's regular schedule of work hours;
- attendance is voluntary;
- the course, lecture, or meeting is not directly related to the employee's job; and
- the employee does not perform any productive work during such attendance.

Training is directly related to the employee's job if it is designed to make the employee handle their job more effectively as distinguished from training the employee for another job, or for a new or additional skill. If an employee, on his or her own initiative, attends an independent school, college, or independent trade school after work hours, the time is not work time even if the courses of study are related to his or her job.

## **CHAPTER IV – THE CITY’S POSITION CLASSIFICATION AND PAY PLAN**

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### **Coverage and Assignment of Positions**

City Government exists to provide certain necessary and important services to the citizens of the City of Martinsville. In order to fulfill this responsibility, the City must attract and retain competent and loyal employees dedicated to the mission of providing high quality public service. This requires a comprehensive compensation program that rewards and recognizes employee’s commitment, skill development, and quality service.

The City’s goal is to compensate employees fairly, relative to similar positions in the market place, and to offer a competitive wage and benefits package that keeps turnover to a minimum. Positions with similar duties and responsibilities are grouped together in the same job classification. Every position, except that of the City Manager, is assigned to a specific grade that consists of a minimum, job rate, and maximum range of pay, with the mid-point or job rate reflecting the market average for that position. The grade determines the compensation for which an employee is eligible.

## **CHAPTER V - PERFORMANCE AND CONDUCT**

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### **Performance Management Program**

In an effort to help the City achieve its goals and objectives, motivate and retain quality employees, and provide the City’s workforce with an understanding of what is expected of them, a performance management system is utilized. The purpose of the program is to make each employee aware of their overall performance and effectiveness and clarify functions, duties and responsibilities. Work that meets and/or exceeds expectations can be recognized and rewarded and serious disciplinary problems can be identified and resolved.

The Human Resources Director, with input from department directors and approval of the City Manager, is responsible for the development and administration of the performance management program. Components include evaluation forms and methods, eligibility for performance increases, promotional, reassignment, demotion, and dismissal guidelines, employee training, certification, and development programs, and succession planning efforts. All full-time employees under the jurisdiction of the City Manager shall participate in the Performance Management Program. For specific information regarding rating categories and eligibility for increases to base pay, see “Performance Management and Compensation Guidelines”.

### **Nature and Frequency of Reviews**

Except for interim and introductory reviews, the employee’s immediate supervisor conducts the formal annual evaluation in May. The evaluation should be approved, in writing, by the next level of supervision prior to discussing the appraisal with the employee. In cases where the department director is the rater, the City Manager may review these ratings. Interim evaluations may also be conducted at any time during the performance cycle to advise both introductory and regular employees of progress toward meeting performance objectives or to document problems or exceptional performance.

A performance evaluation may be delayed in cases where an employee has been on FMLA, military leave, educational leave, job-incurred illness or injury, and/or the employee's supervisor has not had sufficient opportunity to observe the employee's work. In these circumstances, the department director may defer the evaluation for a period not to exceed the total time of the employee's absence from duties. The department director should document the deferral via written memorandum with copies to the Human Resources Director and the employee.

When in doubt, employees should ask questions regarding the requirements to meet the performance standards of their position. The City encourages employees to provide input into their formal evaluation. The employee may provide their supervisor with a listing of accomplishments for the evaluation period. To the extent possible, the evaluation shall be based on facts and careful observation of the employee's performance for a specified period of time. Appropriate comments, explanations, suggestions, and/or recognition shall be included as a part of the total evaluation.

### **Introductory Period**

The first six months of service for a regular full-time employee is considered a working test, or introductory period. Law enforcement officers and fire personnel serve an introductory period of up to 12 months. During this time, the immediate supervisor will work closely with the employee. Guidance and training will be provided and the employee's work will be observed.

To determine if the employee has demonstrated their ability to perform the essential job functions and suitability as a City employee, performance evaluations will be conducted within 90 and 180 days following the employee's initial employment date. The purpose of the review is to give both the employee and the supervisor an opportunity to discuss their working relationship, the employee's strengths, areas that need improvement, and whether employment should be discontinued or if the employee should be granted regular status. If granted regular status, satisfactory completion of the introductory period does not guarantee continued employment.

Upon the recommendation of the supervisor, the department director may extend an introductory period for up to six additional months in situations where the ability to meet essential job functions is questionable, or where the duties of the job require additional training.

### **Dismissal During or Extension of Initial Introductory Period**

An introductory employee may be dismissed at any time during the introductory period if it is determined that the employee is not capable of performing assigned duties and/or for other justifiable cause. Also, the introductory employee may terminate the employment relationship at any time during and after the introductory period. A new introductory employee who cannot or is unable to adjust to his or her position may be terminated or be placed in another classification for which he or she may be qualified, provided an appropriate vacancy is available. Upon the recommendation of the supervisor, the employee's department director may extend an introductory period for up to six additional months in situations where the ability to meet essential job functions is questionable, where the duties of the job require additional training, or where an additional working test period is required. The supervisor must notify the employee, in writing, if the introductory period will be extended. Prior to dismissal of an introductory employee, supervisors should consult with the Human Resources Director to discuss possible options.

### **Annual Performance Reviews**

For regular employees, formal written performance evaluations are conducted at least once a year or at other intervals as determined by the immediate supervisor. Annual evaluations do not replace day-to-day discussions between the employee and supervisor, but they should help establish job specific examples of how to meet those goals.

The formal evaluation is conducted using forms designated by the Human Resources Office. While standards are different for each job, consideration will be given to: quality of work; job knowledge and skills; productivity; dependability; initiative; working relationships; and other categories.

Before a formal appraisal is conducted, the evaluation form will be reviewed and approved by the next level supervisor. Once the evaluation is conducted, the completed form shall be forwarded to the Human Resources Office and placed in the employee's personnel file. The department will retain a copy of the evaluation for their records. When an employee is transferred or promoted, the supervisor at the time of a transfer or promotion will complete an exit evaluation. The evaluation will be processed in the manner described above.

## **CHAPTER VI - BENEFITS**

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A variety of benefits, combined with an employee's salary, establish a total compensation package that helps to attract, reward, and retain employees. From time to time, conditions or circumstances may require that the City make changes, additions, or deletions in its benefits program for both active employees and retirees as the City determines are appropriate. This policy does not guarantee current or future benefits, unless required by federal or state law.

### **Retirement**

The Virginia Retirement System (VRS) was designed by the State to supplement federal Social Security retirement coverage. Membership in VRS is a condition of employment for all eligible full-time City employees. VRS provides a monthly payment to members when they retire for as long as the member lives. This monthly payment is based on whether the employee is considered VRS Plan 1-hired before 7/1/2010 with service credit or VRS Plan 2-hired or rehired after 7/1/2010 with no service credit and withdrew their VRS funds; the member's average highest, consecutive 36 or 60 months of salaried employment (based on Plan 1 or Plan 2); years of VRS membership; and the member's age.

The City contributes both the employer's share, as well as a portion of the employee's monthly share. Police officers and firefighters may be eligible for an additional retirement benefit through the Virginia Retirement system. Employees should contact the Human Resources Office for additional information regarding this benefit.

### **Basic Group Life Insurance**

Full-time employees are required to participate in the City's group life insurance plan. The amount of basic group life insurance is equal to the employee's annual salary, rounded to the next highest thousand, and then doubled. There is also coverage for accidental death and dismemberment. This benefit is provided at no cost. Employees must choose a beneficiary at the time of enrollment. To change a beneficiary, contact the Human Resources Office. Full-time employees may also purchase additional *optional group life insurance* for one, two, three, or up to four times their salary, not to exceed \$600,000, as well as optional coverage for dependents, subject to limitations. Employees are responsible for paying the premiums through payroll deduction. Premium deductions will increase as an employee's salary increases and when certain age categories are met.

### **Social Security**

Employees are required to participate in the Social Security program (FICA). The City withholds a percentage each month for this purpose; the City shares equally in the cost of the program. Employees should make sure that their social security number is correct and their name is spelled properly. If an

employee's name changes due to marriage, divorce or any other reason, the Human Resources Office and the Social Security Administration Office should be contacted so that records can be updated.

### **Health Related Benefits**

Full-time employees may enroll in a variety of health related benefits offered by the City. Employees who enroll in these programs will receive information that explains the programs in detail, the benefits provided, and the monthly premiums, if applicable. Unless otherwise permitted, employees have an opportunity to add or drop coverage only once a year during open enrollment unless a valid family status change occurs as described below.

Upon regular or disability retirement, as defined by the Virginia Retirement System, **and** in accordance with Administrative Policy PA-13, "Retirement Medical Coverage", a retiree may continue his or her medical insurance that was in effect prior to retirement. The retiree's dependent(s) must be enrolled in the City's medical group plan six (6) months prior to retirement in order to be continued under the City's health insurance program. Specific information and eligibility criteria are available in the Human Resources Office.

The City has established a Section 125 Benefit Plan that allows employees to save taxes on the money employees pay toward certain group sponsored benefit premiums. Employees' premium contributions are automatically deducted from their salaries before taxes are taken out. Taxable income is reduced by the amount contributed, so employees pay less in taxes and have more take-home pay. All full-time employees are automatically enrolled in this pre-tax premium plan. However, an employee may waive their pre-tax status if they wish to do so.

The IRS requires that an employee experience a valid "family status change" in order to adjust the amount of their pre-tax amount. Valid family status changes, as defined by the IRS, include:

- Marriage, divorce or legal separation
- Death of spouse or dependent
- Birth, adoption or change in legal custody for dependent children
- Employment or termination of employment of spouse
- Employee or spouse changes from full-time to part-time
- Dependent loses eligibility or becomes eligible
- A significant change in the cost or coverage attributable to spouse's employment
- Employee or spouse takes unpaid leave of absence

If you wish to make a change to health or dental coverage, you must complete and sign appropriate paperwork within 31 days of one of the valid family status changes listed.

### **COBRA**

The Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) requires most employers who sponsor group health plans to offer covered employees and their families the opportunity to extend their health coverage in the event of loss of coverage. To be eligible to continue coverage, certain circumstances called "qualifying events" must occur.

### ***Qualifying Events***

Coverage may be continued for the employee, spouse and dependent child(ren) up to 18 months due to the employee's:

- Reduction of Hours (strike, layoff, leave of absence, full-time to part-time)
- Voluntary Termination of Employment
- Involuntary Termination (for any reason other than gross misconduct)
- Employees called to active military service may continue employer-provided health coverage for up to 24 months.

### ***Qualifying Events (Spouse and/or Child(ren))***

Coverage may be continued up to 36 months as a result of:

- Death of covered employee
- Divorce or legal separation
- Loss of "dependent child" status under the plan
- Employee entitled to Medicare

Qualified beneficiaries, including the employee's covered spouse or dependent child(ren), have the right to elect to continue coverage under the same terms and conditions in effect immediately before the qualifying event. If the plan or benefits are subsequently modified for all active plan members, they will be modified for the qualified beneficiaries as well. Special rules for disabled individuals may extend the maximum periods of coverage. In no event will coverage continue beyond 36 months from the date of the original qualifying event.

Under the law, a qualified beneficiary must notify the health plan administrator when a dependent becomes ineligible for coverage for any reason (e.g., divorce, legal separation, aging out, marriage, etc.) Employees should contact the Human Resources Office for more information about the benefits and eligibility criteria under COBRA.

### **Temporary Disability Payment**

Under certain situations, the City provides temporary disability benefits to *full-time regular employees* in the event an employee becomes unable to work because of a non-work related injury or illness. (See Chapter VII, "Family and Medical Leave".)

### ***Eligibility Criteria***

In order to qualify for this benefit, an employee must:

- have worked a minimum of six months of continuous service at the time the leave of absence without pay begins;
- have exhausted all sick, annual, and compensatory leave, and be on leave without pay for no less than five consecutive scheduled work days; and
- provide certification of the attending physician that the employee is too ill or disabled to work, and the date employee expects to return to work (if that date is known). FMLA Certification will be accepted in lieu of additional documentation.

If the employee is then unable to return to work on the anticipated date, an additional certification from the physician may be required. The department director and the City Manager must approve the extension of the leave of absence without pay.

### ***Rate of Payment***

The rate of payment is 30% of the employee's salary, calculated on a per diem basis, retroactive to the first day of leave without pay. Disability benefits are awarded for no more than twelve consecutive weeks (480 hours) in any 52-week period, or the maximum duration of the employee's FMLA leave whichever is less. This benefit does not apply to employees who are receiving Workers' Compensation benefits.

### **Voluntary Benefits**

A deferred compensation plan allows employees to set aside a specific percentage of taxable earnings, before taxes, in an investment of the employee's choice. Employees may also join the Virginia Credit Union.

### **Unemployment Compensation**

An employee who is laid off or terminated may apply for unemployment compensation at the local office of the Virginia Employment Commission. The Commission will determine the employee's eligibility, which depends upon such factors as length of employment, reason for separation, and salary earned.

### **Workers' Compensation**

The immediate supervisor is responsible for setting a good example for employees. Supervisors should encourage safe work practices and make safety an integral part of the day-to-day activities. Employees are required to comply with safety policies, including proper operation of machinery and use of safety equipment. Disciplinary action may be taken where unsafe practices are observed.

When an accident or qualifying illness occurs while at or the result of work, an employee may be entitled to compensation to help offset the loss of wages during the period that the employee is unable to work. The employee must report any work-related accident to the supervisor, no matter how insignificant. In case of a life or limb threatening emergency, the employee's supervisor should call 911.

A nurse call center is used to first report a non-life threatening emergency work-related injury. The medical professional at the call center will obtain specific details of the injury and the employee's medical condition and help the employee determine the appropriate level of treatment. The medical professional at the call center will also send the first report of injury to the City's workers' compensation insurance carrier and to other designated officials.

State law allows the City to designate physicians that will treat Workers' Compensation illnesses/injuries. Where medical attention is desired or recommended by the call center nurse, the supervisor will provide the employee with a copy of the *Panel of Physicians* form. The *Panel of Physicians* form must be completed by the supervisor and employee and forwarded to the Safety Officer or Human Resource Office.

If an employee chooses to be treated by a physician other than one on the City's panel of physicians, the employee may be responsible for medical expenses related to that treatment. If the injury is determined to be compensable, the injured employee will receive Workers' Compensation benefits in

an amount equal to 66 2/3 percent of their gross average weekly wage. Workers' Compensation benefits are paid directly to the employee and are non-taxable. If the injury is determined to be non-compensable, all absences will first be charged to accrued sick leave and/or other leave as approved by the supervisor.

Under the Virginia Workers' Compensation Act, a disability of over seven (7) days is required before payment of Workers' Compensation salary benefits can be made. If the disability exceeds twenty-one (21) days, Workers' Compensation will be provided, retroactively for the first seven (7) days.

During the first seven (7) calendar days that an employee is absent from work because of a job-related illness or injury, the City will place the employee on Injury Leave *with pay*. Absences away from work because of an accident on the job should be recorded on employee time records as a "Workers' Compensation" credit. Should the absences continue for more than seven (7) days, the employee will be placed on leave *without pay*?

The injured employee will not accrue sick and annual leave while out on leave without pay. If the employee is not paid wages for the entire day on which the injury occurred, the seven-day waiting period shall include the day of injury regardless of the hour of the injury. All days or part of days when the injured employee is unable to earn a full day's wages, or is not paid a full day's wages due to injury, shall be counted in computing the seven-day waiting period even though the days may not be consecutive.

The immediate supervisor will periodically monitor the employee's progress and keep lines of communication open so that the employee will feel a part of the work group. To encourage and ensure a more successful return to work, the supervisor will assist the employee in finding light duty or modified work.

The Family and Medical Leave Act requires that the City provide up to 12 weeks of unpaid, job-protected leave to eligible employees when a serious health condition makes an employee unable to perform his or her job. Any Workers' Compensation injury or illness that qualifies as a serious health condition will be designated as FMLA and counted against the employee's annual FMLA entitlement. For the duration of the FMLA leave, the City will maintain the injured employee's health and life insurance coverage. The employee must pay for other benefits that are usually deducted from their salary.

If an injured employee is unable to return to work at the conclusion of the 12 weeks, the employee will remain on leave of absence for a period not to exceed six months. Subject to applicable law, department directors have the discretion of extending the Workers' Compensation Leave based on the needs of the department and any undue hardship created by the continued absence of the injured employee. Should an employee believe they are eligible for disability retirement under the Virginia Retirement System, contact the Human Resources Office. Questions regarding Workers' Compensation may be directed to the Human Resources Office or Emergency Management Coordinator.

### ***Light Duty***

In conjunction with the Emergency Management Coordinator and the Human Resources Director, departments may be required to establish a light duty program which will allow an employee who has not reached maximum medical improvement to return to a limited work situation, subject to the approval of the treating physician. An employee who declines to return to light duty which is approved by their physician must use leave time to cover the absence from work. An employee who fails to fully cooperate with the intent and spirit of the Workers' Compensation policy is subject to disciplinary action.

## **Recognition Programs**

Subject to available funds, regular full-time employees who meet specific eligibility requirements may be considered for programs which recognize continuous employment or other special employee contributions that the City from time to time develops.

### **Service Award Program**

The purpose of the service award program is to build individual morale and to give the long service employee a measure of individual distinction, to show appreciation to the employee for his/her faithful service, and to strengthen his/her feeling of being a part of City government.

This program applies to all regular full-time employees in Departments under the jurisdiction of the City Manager.

Service awards shall generally be in recognition of continuous employment for five-year increments of time, and as follows:

- A. An employee's service shall be considered continuous so long as his/her name remains in an uninterrupted way on the City's payroll, and/or
  1. The employee is on an approved leave of absence under the terms of the City's Employee Manual.
  2. The employee has been laid off involuntarily.
  3. The employee enters military service and returns to work within ninety days after his/her honorable discharge.
- B. No credit for prior service shall be considered in the award program in a case where an employee is terminated by reason of voluntary resignation or discharge, and then re-hired.
- C. An employee whose service terminates for any reason prior to his/her appropriate employment anniversary date shall not be eligible to receive an award, with certain exceptions as follows:
  1. The employee shall receive an award if he/she retires voluntarily or is required by reason of physical disability to retire within ninety days of the appropriate anniversary date.
  2. The employee's family shall receive the award if he/she dies within ninety days of the appropriate anniversary date.
  3. The employee shall receive the award if he/she is required to retire by reason of statutory age limitation within 365 days of the appropriate anniversary date.
- D. Questions concerning an individual employee's eligibility under this program shall be determined by the Human Resources Office and the City Manager.

Each eligible employee shall receive a cash award based on his or her length of service as follows:

## CASH AWARD

<u>Years of Service</u>	<u>Cash Amount</u>
5	\$ 150
10	\$ 175
15	\$ 200
20	\$ 500
25	\$1,000
30	\$1,500
35	\$2,000
40	\$2,500

The cash award will be a part of the employees' payroll check at the end of their anniversary month. The City Manager and Director of Human Resources shall present award certificates at the staff meeting held the Monday preceding the second Council meeting of each month. Department heads will be given a list of their eligible employees prior to each monthly meeting and are asked to contact each eligible employee (and their immediate supervisor if they so desire). A list of employees receiving service awards shall be made a part of the City Council agenda on a quarterly basis where it will be read and made a part of the minutes and the media coverage of the meeting.

### Employee Suggestion Program

The purpose of the Employee Suggestion Program:

- a) to stimulate employees to examine the manner in which routine operations are carried out and to offer suggestions for improving the economy, efficiency, safety and quality of municipal work; to provide employees with an opportunity to participate in the management of the City's operations by providing a channel through which employees can communicate ideas to management, allowing the City to draw upon the knowledge and experience of its employees for its benefit.
- b) to recognize and provide awards for suggestions that directly contribute to a reduction in cost and thereby produce tangible cost savings to the City;
- c) to recognize suggestions that directly result in improved working conditions; improved efficiency of operations; and improved employee morale and safety, and thereby produce intangible, non-quantifiable benefits to the City; and
- d) to reward those employees who achieve more than their jobs require and who dedicate extra effort to making improvements, thus demonstrating high commitment to City goals.

A suggestion may be eligible for an award if it contributes to the efficiency, economy, or other improvement of City operations. A suggestion may be tangible or intangible. A "tangible" suggestion is one which produces a measurable cost saving or increase in revenue. An "intangible suggestion" is one which produces an improvement which is not subject to concrete measurement, such as an improvement in employee morale, safety, public relations, etc.

To qualify for consideration, a suggestion must be a written proposal that clearly outlines a problem and recommends a specific solution. Eligible suggestions may include but are not limited to:

- a) improving methods and procedures to increase efficiency;
- b) saving time, labor, space, material, or supplies;
- c) improving tools or materials;
- d) improving administrative or operations techniques and practices;
- e) eliminating unnecessary procedures, records and forms;

- f) eliminating delays and duplication;
- g) improving the quality of service to the public; and
- h) improve safety, health, or working conditions.

#### Ineligible Suggestions

The following types of suggestions are not eligible for consideration for a suggestion award:

- a) suggestions dealing with routine repair and maintenance;
- b) suggestions that point out problems without proposing solutions;
- c) general complaints, personal grievances, or expressions of dissatisfaction;
- d) proposals for minor improvements in working conditions that the employee or immediate supervisor can correct through normal or customary action, or which are clearly within the scope of the employee's job;
- e) suggestions proposing salary increases, job reclassifications, or liberalization of pay policies or benefits;
- f) matters already and specifically under study or review by management; or a duplicate of another suggestion already under study or which has previously been considered;
- g) proposals to have a survey, study or review with a course of action to be taken in accordance with the findings;
- h) matters requiring judiciary or State legislative action;
- i) strict enforcement of already existing rules, regulations and laws within or outside the City; and
- j) suggestions which only recommend increased rates for taxes, fees, and licenses.

#### Employee Eligibility

- a) All City and Constitutional employees are eligible to participate in the Employee Suggestion Program, except as follows:
- b) department heads;
- c) employees who are assigned a particular problem to solve that is within the scope of their duties and responsibilities, unless the suggestion has wide application surpassing the scope of the assignment; and
- d) employees who are expected as part of their jobs to have and act upon ideas for improvement.
- e) Any employee submitting a suggestion shall not lose his/her eligibility for an award due to termination of employment, if the suggestion is implemented within one year of submittal.

#### Awards

**Intangible Benefits:** Awards for approved suggestions with intangible benefits will be in the amount of \$25.00.

**Tangible Benefits:** The amount of the award will normally be based on the estimated net monetary benefits for the first year of operation following implementation of the suggestion. A minimum tangible benefit of \$250 will be required for an award. For \$250 - \$600 in benefits, the award will be \$30; for benefits exceeding \$600 the award will be 5% of the benefits, not to exceed an award of \$1,500.

Awards for joint suggestions will be apportioned equally among the employees that made suggestion.

If the full cost savings cannot be immediately assessed, the employee making suggestion will be notified of the length of time necessary for thorough evaluation, not to exceed one year.

If the applicability of a suggestion cannot be readily determined, a trial period may be implemented, not to exceed one year. If, after testing, the suggestion is proven to be applicable, the award will be granted.

Award payments will be included in the employee's regular paycheck and are subject to applicable withholding taxes.

Certificates of merit will be presented by City Council to award winners, who will also be recognized in the City newsletter and other public announcements, unless the employee specifically indicates that he/she wants no publicity.

### **Suggestion Processing**

The employee submits a completed suggestion form to the Human Resources Office, where it is dated and recorded.

The suggestion will be reviewed by the Assistant City Manager to determine whether the suggestion is eligible for consideration and if additional information is needed from the employee.

An eligible suggestion will then be referred to the Department Head concerned, who will evaluate the suggestion and make a recommendation regarding adoption/rejection and tangible/intangible benefits.

The Department Head's evaluation and recommendation will then be reviewed and approved/disapproved by the City Manager. Where appropriate, the award amount will be determined. The employee will be advised whether the suggestion is approved. The award will be made when the suggestion is put into practice.

### **Wellness Program**

The City Wellness Program provides annual health care screenings and other related health and wellness opportunities which encourage employees to reduce or prevent health risks. A fitness facility is also available at some city locations where volunteers are available to assist employees with a fitness assessment or set up a workout plan.

### **Employee Assistance Service**

The City offers Employee Assistance Program (EAP) services as a benefit to full-time employees. If an employee or a member of his/her immediate family experiences a personal difficulty or problem which might affect their job performance, confidential assistance is available through the EAP. The employee or their immediate family member may contact the EAP directly. The employee may also be referred to EAP by their immediate supervisor. The basis for or a referral by the City shall ordinarily be:

- a decline in work performance, unsatisfactory attendance, poor attitude, or unusual behavior which may be caused by a personal problem;
- a particular on the job incident which indicates the presence of a personal problem; or
- a request from the employee to his/her supervisor for advice or assistance regarding a personal problem.

If an employee's performance or attendance is unsatisfactory, the immediate supervisor will discuss this matter with the employee. Should the supervisor feel the employee's performance or attendance is being adversely affected by a personal problem, EAP services may be offered as an

alternative to disciplinary action, subject to the approval of the department director. When confidential help and services are offered as an alternative to disciplinary action, employees are expected to accept assistance, comply with referrals for the assessment of his/her problem, and to cooperate and follow the recommended treatment plan.

### **Education Incentive**

Annually, the City Manager will establish the fiscal year reimbursement limits for employees who satisfactorily complete specific coursework that is directly related to their position, which will improve their knowledge and skills, and will increase their job performance. The limit will be based on the current local community college rate for twelve credit hours, the prior year's level of participation, and other related factors. Subject to available funds and compliance with applicable administrative guidelines, the City may provide tuition assistance to regular employees who:

- complete the requirements for a GED (for employees who wish to obtain the equivalent of a high school diploma); and
- complete college level courses that specifically relate to the duties of the employee's current job.

"Satisfactory completion" is defined as receipt of a grade of "C" or better, or in a case where no grade is given, receipt of a certificate or diploma.

#### ***Review of Request***

Prior to enrollment in a class, an employee who wishes to take a course or courses that could qualify for reimbursement under the Education Incentive Policy must complete an *Education Incentive Request* form and submit the request to their department director for approval. The department director must determine that the coursework will be mutually beneficial to the employee and the City in at least one of the following ways:

- It will enable the employee to assume and perform more difficult responsibilities and tasks;
- It will improve the quality of the employee's work and bring additional skills to the job; or
- It will enhance the employee's opportunity for promotion to a higher classified position within the employee's related field.

Upon approval, the department director will forward the form to the Human Resources Director for further action and subsequent approval by the City Manager. The Human Resources Office will notify the employee and the department director as to whether the request has been approved and to what extent the course costs can be reimbursed. Within fifteen days after successful completion of the course or program, the employee must provide the Human Resources Office with a copy of the grade report or certificate and receipt for the cost of tuition and required books.

#### ***Time for Class Attendance***

Employees will take courses on their own time. If a course is offered only during the employee's scheduled work hours, the employee may request that the supervisor adjust his or her work schedule. The department director will approve or disapprove the request.

#### ***Repayment***

An employee who terminates employment shall repay the City for any reimbursements received within the previous twelve months.

## CHAPTER VII - HOLIDAYS AND LEAVE

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### Holiday Schedule

#### *Days Observed*

Employees under the jurisdiction of the City Manager will observe the state holiday schedule officially designated and approved by the Governor of Virginia, and will be subject to revisions when additional holiday time is granted.

<b>Holiday</b>	<b>Day Observed</b>
New Year's Day	January 1
Lee-Jackson Day	Friday preceding Martin Luther King, Jr. Day
Martin Luther King, Jr. Day	3 <sup>rd</sup> Monday in January
Washington's Birthday	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 <sup>st</sup> Monday in September
Columbus Day	2 <sup>nd</sup> Monday in October
Veteran's Day	November 11
Day before Thanksgiving (close at noon)	4 <sup>th</sup> Wednesday in November
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Day after Thanksgiving	4 <sup>th</sup> Friday in November
Christmas Eve	December 24
Christmas Day	December 25

For those offices that remain open on designated holidays or do not follow the established holiday schedule, the total number of paid holidays shall include the number of holidays officially designated by the state schedule and approved by the Governor of Virginia. For purposes of computing holiday pay and compensatory time earned, a declared holiday shall be defined as eight (8) hours, unless otherwise approved by the City Manager. When a holiday falls on a Saturday, the Friday before the holiday will be observed. When a holiday falls on a Sunday, the Monday following the holiday will be observed.

#### *Eligibility*

All regular full-time employees, including those serving in an introductory period, are eligible to receive pay for observed holidays, as specified below:

- If an employee's first day of work in the pay period is a holiday and the employee works the next day, the employee will be paid for that holiday;
- If an employee retires or leaves City employment and the final day of the pay period falls on a holiday and the employee works the day before, the employee will be paid for that holiday.

If a holiday falls on a day when an employee is normally scheduled to work more than the number of hours for which the employee would receive holiday pay, the employee will be allowed to work the additional hours on another day or charge the additional hours to accrued annual or

compensatory time. An employee whose scheduled day off falls on a holiday and who does not work that day may be given the holiday off at another time.

### ***Holiday Pay***

Non-exempt employees who are normally scheduled or authorized to work on a holiday will be credited with compensatory leave for the hours actually worked. In addition to the regular holiday, non-exempt employees who are required to perform emergency work on an authorized holiday will be paid at a rate of one and one-half times their hourly rate for all hours worked on the holiday.

### **Religious Holidays**

Each department will make reasonable accommodation for the religious holiday needs of employees, unless accommodation will result in undue hardship to the department. If an employee requests time off to observe a religious holiday that falls during their normal work hours, the department should make a reasonable effort to allow time off. Employees are expected to request leave in advance so that the department may accommodate the request. Time off for religious holidays shall be charged to an employee's accrued annual or compensatory leave balances, or to leave without pay, as appropriate.

### **Leave of Absence with Pay**

The City provides leave with pay in the interest of the health and well being of its employees. Leave privileges add to the security of employees and aid in retaining and attracting capable employees. In return for granting leave, the City expects its employees to consider the interests of the City and not to take unfair advantage of leave privileges.

### **Years of Service – Annual and Sick Leave**

For the purpose of computing the rate of annual leave, sick leave and accumulation limits, years of service shall apply only to continuous years of employment for full-time employees under the jurisdiction of the City Manager. The first year of service shall commence on the first day of the month in which the employee began work with the City.

### **Non-Accrual Months – Annual and Sick Leave**

An employee does not earn leave in any calendar month in which the employee is:

- on approved leave of absence without pay for more than half of the working days; or
- suspended for more than half of the working days.

Annual and sick leave are credited to the employee at the end of each accrual cycle unless the employee has experienced a leave without pay during the pay period. In the initial and/or terminal months of employment, if the employee works at least one-half of the working days of the month, the full amount of credit will be provided. An employee ceases to earn annual or sick leave after the maximum accumulation has been reached.

**Temporary to Regular Status for Purpose of Earning Annual and Sick Leave**

In the event an employee moves from temporary to regular employment, temporary employment shall not be credited toward the calculation of service years for the purpose of computing leave earnings. An employee who changes from full-time benefited to temporary or part-time status is no longer eligible to use sick leave for absences. All accrued sick leave will be retained in the employee’s file for use if the employee returns to a full-time benefited position.

**Annual Leave**

Regular and introductory full-time employees earn annual leave based on the length of their continuous service. Annual leave is provided for the purpose of rest and relaxation, but it may also be used for absence of other personal necessity. Annual leave may be taken as earned, subject to the approval of the supervisor. Employees may accumulate annual leave based on years of service. A maximum monthly accumulation and a maximum annual carryover are based on the charts listed below.

**Accrual Rate and Accumulation for Full-Time Forty-Hour Employees**

<b>Years of Service</b>	<b>Rate of Accrual</b>	<b>Maximum Accumulation/Carryover</b>
0 through 4	8 hours per month/12 days per year	240 hours
5 through 9	10 hours per month/15 days per year	240 hours
10 through 14	12 hours per month/18 days per year	240 hours
15 through 19	14 hours per month/21 days per year	240 hours
20 or more	16 hours per month/24 days per year	240 hours

**Accrual Rate and Accumulation for Full-Time Fire Personnel Who Work 2912 Hours Per Year**

<b>Years of Service</b>	<b>Rate of Accrual</b>	<b>Maximum Accumulation/Carryover</b>
0 through 4	11.2 hours per month	336 hours
5 through 9	14 hours per month	336 hours
10 through 14	16.8 hours per month	336 hours
15 through 19	19.6 hours per month	336 hours
20 or more	22.4 hours per month	336 hours

**Accrual Rate and Accumulation for Full-Time Fire Personnel Who Work 2756 Hours Per Year**

<b>Years of Service</b>	<b>Rate of Accrual</b>	<b>Maximum Accumulation/Carryover</b>
0 through 4	10.6 hours per month	318 hours
5 through 9	13.25 hours per month	318 hours
10 through 14	15.9 hours per month	318 hours
15 through 19	18.55 hours per month	318 hours
20 or more	21.2 hours per month	318 hours

**Justification for Annual Leave Use**

Although annual leave is an employee benefit, it should be scheduled so the ongoing work effort is not disrupted. As a result, all requests for annual leave must be approved in advance by the employee’s

immediate supervisor and in accordance with established departmental requirements. When authorized, annual leave may be taken in minimum increments of fifteen (15) minutes.

***Holidays during Annual Leave***

Any scheduled holiday that falls during an employee’s annual leave will not be charged to that leave balance.

***Advancement of Annual Leave***

No advanced annual leave may be used in excess of that leave which will be earned through the end of the calendar year.

***Donation of Annual Leave***

Employees may voluntarily donate annual leave to another employee who has exhausted his/her sick and annual leave including advanced annual leave due to an extended non-job related accident or illness, or for an emergency situation. Only Annual Leave can be transferred or donated to another employee for use as sick leave. All such requests for donated leave must be approved by the City Manager.

Use of donated leave is limited to the duration of the employee’s FMLA leave.

***Annual Leave Termination Payment***

An employee who leaves City employment shall be paid for any unused annual leave, not to exceed the employee’s maximum accumulation rate. The date of termination of employment shall be considered to be the last active working day for the employee. The termination payment will be based on the employee’s salary rate prior to termination. If an employee leaves City employment and has taken more leave than earned at the date of termination, such deficiency shall be deducted from the employee’s final salary payment. In the event of an employee’s death, the unused annual leave credit will be payable to the employee’s estate. An employee who returns to work within (90) days may be credited with their previous accrual rate, less the length of the absence. (See Chapter X, “Retirement”).

**Sick Leave and Accrual Rate**

Regular and introductory full-time employees earn sick leave based on their length of continuous service. There is no limit on the maximum amount of sick leave an employee may accumulate. Sick leave is a privilege and is provided to help protect an employee against loss of salary and employment when injury or sickness makes it impossible for the employee to work and should only be used when necessary. Abuse of sick leave is considered grounds for counseling and/or discipline.

**Accrual Rate and Accumulation for Full-Time Forty-Hour Employees**

<b>Years of Service</b>	<b>Rate of Accrual</b>
0 through 4	8 hours per month or 12 days per year
5 through 9	8 hours per month or 12 days per year
10 through 14	8 hours per month or 12 days per year
15 through 19	8 hours per month or 12 days per year
20 or more	16 hours per month or 24 days per year

***Accrual Rate and Accumulation for Full-Time Fire Personnel Working 2912 Hours per Year***

<b>Years of Service</b>	<b>Rate of Accrual</b>
0 through 4	11.2 hours per month
5 through 9	11.2 hours per month
10 through 14	11.2 hours per month
15 through 19	11.2 hours per month
20 or more	22.4 hours per month

***Accrual Rate and Accumulation for Full-Time Fire Personnel Working 2756 Hours per Year***

<b>Years of Service</b>	<b>Rate of Accrual</b>
0 through 4	10.6 hours per month
5 through 9	10.6 hours per month
10 through 14	10.6 hours per month
15 through 19	10.6 hours per month
20 or more	21.2 hours per month

***Justification for Sick Leave Use***

When an employee is sick and unable to report for work, the employee must notify his/her immediate supervisor of the need to take sick leave. Unauthorized use or abuse of sick leave and failure to notify the supervisor of an absence within one hour after the beginning of the employee's workday, except in an emergency situation, is considered grounds for discipline up to and including termination. Prior notification to the immediate supervisor is required of the employee's need for sick leave use due to appointments for health or medically related issues. Sick leave may be taken in minimum increments of fifteen (15) minutes for the following reasons:

***Personal Illness***

Sick leave may be used to cover any absence from work because of a personal illness, injury, or physical incapacity (other than incurred in line of duty) that prevents the employee from performing his/her job or exposure to contagious disease, when the employee's presence on duty would jeopardize the health of fellow workers or the public. An illness, injury, or medical condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or an incapacity that lasts more than three consecutive days may be considered a serious health condition and subject to the requirements of the Family Medical Leave Act. The City may also designate leave as FMLA leave without a request from the employee. (See Family and Medical Leave in this Chapter).

A department director will require a certificate from the employee's physician stating when the employee regains his/her physical capacity to resume assigned duties. At the discretion of the department director, the employee may be required to submit to a medical examination or inquiry.

***Use of Sick or Bereavement Leave While on Vacation***

An employee who is injured, becomes ill, or experiences a death in the employee's immediate family while on vacation may use sick or bereavement leave in lieu of vacation provided that the employee:

- (a) was hospitalized during the period for which sick leave is claimed;

- (b) received medical treatment or diagnosis covering the period for which sick leave is claimed;
- (c) was preparing for or attending the funeral of a member of the immediate family; and
- (d) requests, in writing, the need to use sick or bereavement leave in lieu of vacation within ten (10) days of the employee's return to work.

At the discretion of the department director, documentation from a licensed physician will be required to substantiate proof of the employee's illness. Dated documentation of an emergency room visit or a related prescription may be used to substantiate an illness.

### ***Medical and Dental Appointments***

If permission of the immediate supervisor is obtained, medical and dental appointments that occur during working hours may be charged to sick leave.

### ***Family Illness***

Sick leave is also available when an immediate family member requires the employee's assistance or supervision. In situations where the employee is required to care for a child, parent, or spouse and the medical situation meets the definition of a "serious medical condition", the absence will be considered a qualifying event under the Family and Medical Leave Act. (See Family and Medical Leave in this Chapter).

### ***Immediate Family***

Immediate family is defined as parents (including step-parents), spouse, children (including stepchildren and foster children), brother or sister, and any relative living in the employee's household provided that the employee is contributing to the primary support of that relative or "other" person as defined by IRS regulations. If, upon investigation, the supervisor or department director does not consider the circumstances warrant such absence, the employee will be required to charge the absence to annual leave or leave without pay.

### ***Advancement of Sick Leave***

An employee may only take sick leave that he or she has earned. A non-exempt employee's pay will be reduced by the amount of sick leave taken but not yet earned.

### ***Sick Leave upon Termination of Employment***

Except as provided in Chapter XI, "Retirement Stipend", any balance of unused sick leave will be automatically cancelled without monetary compensation upon termination of employment. An employee who returns to work within (90) days may be credited with their previous accumulated sick leave balance and years of service. (See Chapter X, "Retirement")

### ***Purchase of Service Using Sick Leave Payment***

On the effective date of retirement and provided specific criteria are met, money paid to an employee for unused sick leave may be used to purchase VRS service credit on an actuarial basis. All or a portion of the "Retirement Stipend" may be used as payment. This type of purchase counts toward the service requirement for unreduced VRS benefits. An employee who wishes to purchase service using their anticipated sick leave stipend should contact the Human Resources Office for details.

### ***Sick Leave Compensation for Work-Related Fatalities***

In the event of a work-related fatality, the City will pay an amount equal to the employee's sick leave balance, not to exceed \$2,000, to the deceased employee's next of kin or estate.

### **Bereavement Leave**

When there is a death in the immediate family, full-time introductory and regular employees are allowed a leave of absence with pay in order to attend the funeral or memorial service of an immediate family member, to experience the initial grieving process, and to take care of personal business specifically related to the death in the family. Bereavement leave will be granted for a period not to exceed three (3) working days. The leave is not automatic and should not be requested or granted unless used as intended. Bereavement leave does not accumulate from year to year and must be approved by the immediate supervisor.

#### ***Immediate Family***

For purposes of bereavement leave, immediate family is defined as employee's spouse, child, stepchild, foster child, parent, step-parent, foster parent, brother, sister, brother-in-law, sister-in-law, mother-in-law, father-in-law, son-in-law, daughter-in-law, employee's grandparent, grandchild, uncle, aunt, nephew, and niece.

### **Civil Leave**

Any introductory or regular full-time employee who is summoned to serve on jury duty, or who is summoned or subpoenaed to appear in a court of law will be entitled to civil leave with pay. To receive civil leave, the employee must provide the appropriate supervisor with a copy of the subpoena or summons. Civil leave may not exceed the time actually spent fulfilling the civil duty. Any additional time off on the same day must be charged to annual leave or compensatory time, if eligible, or leave without pay. When an employee needs to use civil leave, he or she must notify the appropriate supervisor as soon as possible. Employees who are defendants in a criminal court case or party in a civil lawsuit may not use civil leave. Absences must be charged to annual leave or compensatory time, if eligible, or leave without pay.

### **Military Leave**

In accordance with federal regulations, the City will grant a leave of absence to any employee who is enlisted in the Armed Forces Reserve, National Guard, Naval Militia, the Virginia State Defense Force, or National Defense Executive Reserve while engaged in active duty, reserve duty, time away for a physical examination to determine fitness for duty, or periods of training that are approved by the Governor or the Governor's designee.

#### ***Active Duty***

Employees who leave City service to enter active duty are entitled to military leave without pay. Unless the City's circumstances have changed so that re-employment is impossible or unreasonable, employees are also entitled to reinstatement into the position they would hold if they had remained in City service. This policy applies to those employees who normally serve no longer than five years. To be reinstated, returning veterans must submit an application for re-employment within specified periods of time, depending on the duration of the individual's military service. Employees must also present a certificate showing discharge or release under honorable conditions.

### ***Reserve Duty***

Regular full-time employees who are enlisted in the National Guard, Naval Militia, or a reserve unit of the Armed Forces are entitled to a leave of absence ***without pay*** for the following periods:

- initial training, and for all other periods connected with the initial training
- weekend drills when these conflict with work schedules
- any reserve training other than the time of annual training.

### ***Paid Military Leave***

Members of the National Guard, Naval Militia or a reserve unit of the Armed Forces are entitled to a leave of absence ***with pay*** for the following periods:

- pre-induction physical
- annual training
- training that is approved by the Governor or the Governor's designee
- emergency call-up ordered by the State or Federal Government

An employee who is scheduled for a pre-induction physical will be given a paid leave of absence for the time of the physical, up to the length of the normal shift. Employees are entitled to up to 15 workdays of ***paid*** military leave for federally funded training or active duty per federal fiscal year (October 1 through September 30).

### ***Documentation***

To qualify for military leave, employees must furnish their supervisors with copies of their orders or other documentation from a responsible military official. Only the dates specified in the order may be charged to military leave. Employees should give supervisors as much notice as possible. A copy of the military leave and related documents will be forwarded to the Human Resources Office for placement in the employee's personnel file.

Employees, at their request, are permitted to use any vacation that had accrued before the beginning of their military service instead of unpaid leave. However, employees cannot be forced to use vacation time for military service. While on military leave without pay, an employee does not earn annual or sick leave. However, time spent in military service will count towards the employee's length of service for purposes of determining the rate of accumulation and earnings. An employee who returns from military leave will have any prior unused annual and sick leave restored to his or his leave balances.

### **Leave of Absence without Pay**

Except where legally required, as in the Family Medical Leave Act, the City is not obligated to grant leave without pay. However, an employee may be granted a leave of absence without pay for reasons that the City Manager considers to be in the best interest of both the employee and the City. Leave without pay must be requested in writing and submitted to the employee's department director, subject to the review of the Human Resources Director, and approval of the City Manager. A department director will automatically place an employee on leave of absence without pay within five working days after the employee has exhausted all accumulated sick, annual, and compensatory leave. The leave will be retroactive to the date on which said leave was exhausted. If eligible, an employee may apply for Temporary Disability Pay, as described in Chapter VI, to run concurrently with the leave of absence.

Employees who are on approved leave of absence without pay do not earn annual and sick leave, except as outlined in Chapter VII, “Holidays and Leave – Non-accrual Months – Accrual and Sick Leave.” During a leave of absence for reasons other than personal or family illness, the employee will retain any unused annual and sick leave accumulated prior to leave. Unless extenuating and approved circumstances prevent an employee’s return to work on the specified date, any additional leave time will be charged to accumulated annual leave. The employee may also be subject to other disciplinary action up to and including termination. In accordance with the Fair Labor Standards Act, an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked except:

- In the initial or terminal week of employment
- When an exempt employee takes unpaid leave under the Family and Medical Leave Act
- Deductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons; OR
- When the employee has exhausted all other forms of leave. For matters relating to disciplinary suspensions without pay, see Chapter IX. Exempt employees need not be paid for any workweek in which they perform no work.

### **Injury Leave**

Injury leave may be granted because of an employee’s incapacity to work as a result of an injury or illness that occurred during the course of an employee’s job performance. Injury leave is ordinarily the length of time necessary to enable an employee to return to work following an on-the-job accident or job-related illness. (See Chapter VI, Workers’ Compensation) and Family and Medical Leave as described below in this Chapter).

If a department director doubts that an injury or illness was job-related, the absence will be charged to sick leave until a proper ruling is made. If sick leave is exhausted, the absence will be charged to annual leave, and if necessary, leave without pay. If the injury is finally ruled to be job-related, the absence will be charged to injury leave and all sick leave and/or annual leave will be restored.

### **Family and Medical Leave**

The federal Family and Medical Leave Act (FMLA) of 1993, as amended, provides up to 12 weeks or 480 hours of job-protected leave per year in a twelve-month period for specified family and medical reasons. To be covered under the FMLA, an employee must have worked for the City for twelve (12) months and must have worked at least 1,250 hours within the twelve (12) months preceding the start of the leave. Part-time and temporary employees who meet these requirements are eligible for FMLA leave. \*Special hours of service eligibility requirements apply to airline flight crew employees.

#### ***Basic Leave Entitlement***

Employees are eligible to receive FMLA leave for the following basic reasons:

- Any incapacity due to pregnancy, prenatal medical care or childbirth;
- To care for the employee’s child after birth, or to care for a newly placed child as a result of adoption or foster care; (Leave to care for a newborn child or for a newly placed child must conclude within 12 months after the birth or placement)
- To care for an immediate family member (spouse, child, or parent – but not a parent “in-law”) with a serious health condition; OR
- For a serious health condition that makes the employee unable to perform the employee’s job.

### ***Military Family Leave Entitlements***

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain **qualifying exigencies**. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. A covered service member is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness\*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.\*

The FMLA definitions of “serious injury or illness” for current service members and veterans are distinct from the FMLA definition of “serious health condition”.

### ***How the Leave Year is Calculated***

Except in the case of leave to care for a covered service member with a serious injury or illness, the City uses a “rolling” 12-month period **measured backward** from the date an employee uses FMLA leave to calculate the employee’s eligibility for FMLA leave. For purposes of **military caregiver leave**, the eligibility period **starts on the date an employee first takes leave** to care for a covered service member with a serious injury or illness and ends 12 months after that date. If an eligible employee does not take all of his or her 26 workweeks of leave entitlement to care for the covered service member during this “single 12-month period, the remaining part of the leave is forfeited.

The employee’s total leave entitlement (paid and unpaid) is limited to a **combined total of 26 weeks for all qualifying reasons under FMLA and military leave during a single 12-month period**. For example, an employee may take 16 weeks of FMLA leave to care for a covered service member and 10 weeks of FMLA leave to care for a newborn child. However, the employee may not take more than 12 weeks of FMLA leave to care for the newborn child during the single 12-month period, even if the employee takes fewer than 14 weeks of FMLA leave to care for a covered service member.

### ***Substitution of Paid Leave***

FMLA leave is unpaid. However, before any unpaid portion of the FMLA leave begins, an employee may request, or the City may require the employee to use accrued paid vacation leave, sick leave, compensatory leave, or holiday leave provided by the City on an hour-for-hour basis toward some or all of the FMLA leave period. Employees must follow the same terms and conditions of the City’s leave policies that apply to other employees for the use of such leave. During an intermittent FMLA leave period, and a holiday occurs, the holiday is not counted as FMLA leave, unless the employee was scheduled and expected to work on the holiday and used FMLA leave for that day. During a continuous FMLA leave period, and a holiday occurs, the holiday hours will be counted as FMLA leave. When holiday hours are counted in FMLA leave, they should be reflected properly as such on the employee’s monthly vacation/sick leave form (Employee Time Record). If the amount of leave needed is known at the time the City designates the leave as FMLA-qualifying, the City will notify the employee of the number of hours or weeks of paid leave that will be counted against the employee’s FMLA leave entitlement. When an employee has used all appropriate leave time for a portion of FMLA leave and additional time off is needed, the employee may request unpaid leave to be granted so that the total period

leave (paid and unpaid) does not exceed the total leave entitlement (12 weeks or 26 weeks), dependent on the reason for the leave. All paid and unpaid leave taken for an FMLA qualifying event will be applied towards the employee's FMLA entitlement.

Spouses employed by the City are limited to a combined total of 12 workweeks of family leave for the birth and care of a child, placement of a child for adoption or foster care, or for a qualifying military exigency. If a husband and wife are both employed by the City and each wishes to take leave for a qualified military service member, the eligible employees shall be entitled to a combined total of 26 workweeks of FMLA leave.

### ***Intermittent or Reduced Leave***

An employee does not need to use the leave entitlement in one block and may take leave intermittently (a few days or a few hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition or because of a serious health condition of the employee when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the City's operations. The employee may be required to transfer temporarily to a position with equivalent pay and benefits that better accommodates recurring periods of leave when the leave is planned based on a scheduled medical treatment. Intermittent leave may also be taken for the birth or placement for adoption or foster care of a son or daughter.

To be considered for FMLA leave, the employee must make a written request to the department director thirty (30) days before the leave is to commence if the need is foreseeable. Employees are required to obtain a health care provider certification for all absences for which FMLA leave is being requested. A chronic or long-term health condition or pregnancy does not require a visit to the health care provider for each absence; however, a statement by the health care provider that the absence was due to the chronic condition or pregnancy may be requested by the City at its discretion. In circumstances when the leave is not foreseeable thirty days in advance, an employee must request the leave **as soon as practicable, but in no event more than two days after knowing of the need for the leave**. The City may also designate leave as FMLA leave without a request from the employee. The Human Resources Office will evaluate the request and notify the employee of approval or disapproval of FMLA leave.

An employee should notify the department director and the Human Resources Office of the intent to return to work, two weeks prior to the anticipated date of return, or of any medically necessary changes in the date of return. If the leave was due to an employee's serious health condition, the City may require a "fitness for duty" certification from the employee's health care provider, verifying the employee's ability to return to work, with or without restrictions.

### ***Benefits While on FMLA and Job Protection***

If paid leave is used for FMLA purposes, an employee will maintain the same benefits as if at work. When an employee is on leave without pay, continuation in the health care plan is permitted, provided that the employee's share of the premium is paid. This means that the employee is expected to pay the portion that he or she normally pays toward the premium or risk cancellation of benefits. If some or all of an employee's leave will be without pay, information on how and when to make premium payments may be obtained through the Human Resources Office.

If necessary, an employee will be allowed to discontinue coverage and be reinstated to the plan in the event that the employee returned to work on or before expiration of the FMLA leave. Should an employee fail to make premium payments, the employee will be notified in writing and may be given an additional fifteen days to make payment in full. If payment is not made after this notice, health care benefits will cease. An employee who fails to return to work after the conclusion of the FMLA leave

must reimburse the City for any employer health care contributions made on the employee's behalf. An employee on FMLA leave without pay is not eligible for holiday pay.

Upon return from FMLA leave within the 12 or 26-work week period, an employee is entitled to be restored to the same position that was held before the start of the FMLA leave, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. If an employee is unable to return to work after the FMLA leave benefits have been exhausted, the employee will not have a right to return to his or her position even if there are unused accrued balances. The City will consider an employee who is medically released to return to work but fails to either report to work or call in with a satisfactory explanation as having given a voluntary resignation.

A salaried employee who is among the highest ten percent of the City workforce is not entitled to job restoration if reemployment after the conclusion of the leave will cause a substantial and grievous economic injury to the City. A key employee who is already on FMLA leave will be given a reasonable time to return to work before losing the right to job restoration.

Employees should contact the Human Resources Office for specific guidelines on the policies regulating use of FMLA leave.

## **CHAPTER VIII - DISCIPLINE**

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Upon accepting a position with the City, employees are expected to apply themselves efficiently to their assigned duties, to be timely and regular in attendance, and to maintain satisfactory work performance. Failure to meet these standards can result in disciplinary action up to and including termination.

This Chapter provides employees with a general understanding of what can be expected when a violation of certain policies and/or procedures occurs. It is not possible to list every conceivable form of misconduct. As a result, the conduct standards listed in this Chapter are for illustrative purposes only. Misconduct or nonperformance issues not listed here will be treated consistently within the guidelines outlined in this Chapter. Whenever possible, the City recommends that corrective action be used as an alternative to discipline. However, immediate dismissal may result from situations where the City believes corrective action is inappropriate. The City does not intend for this manual to alter the at-will nature of its relationship with employees.

### **Corrective Action**

As soon as a supervisor becomes aware of an employee's unsatisfactory behavior or performance, the supervisor and/or department director should use corrective action to address such behavior. Events should be documented in writing by using the City's Constructive Action Form. Possible corrective actions include:

- Referral to the Employee Assistance Program (EAP) or other professional assistance
- Counseling; and/or
- Disciplinary action.

Referral to the Employee Assistance Program is not considered a substitute for any disciplinary action because of a charge or an offense.

### **Counseling**

While it is the City's desire that most performance and behavior problems can be resolved through private discussions between the employee and the immediate supervisor, counseling is not a prerequisite to formal disciplinary action. Through the counseling session, the employee and the immediate supervisor should discuss the steps needed to improve the employee's performance and/or behavior and the timeframes for doing so. Continued unsatisfactory performance or behavior may result in additional disciplinary action, up to and including termination.

Counseling should be documented by a letter or memorandum, along with the Constructive Action Report, with a copy to the employee and the original should be retained in the employee's personnel file in Human Resources. Subsequent formal disciplinary action(s), documentation should be retained in the supervisor's file, and in the employee's personnel file.

### **Disciplinary Procedures**

The Human Resources Director is responsible for reviewing all disciplinary actions involving demotion, transfer, suspension, or discharge to determine whether mitigating circumstances exist that warrant a modified disciplinary action and/or referral to the Employee Assistance Program, and for making recommendations to the department director regarding the appropriate disciplinary action. Prior to any disciplinary suspension, demotion, and/or transfer, or dismissal, employees must be given oral or written notification of the offense, and an explanation of the department's evidence in support of the charge. Employees must be given a reasonable opportunity to respond after receiving notification.

Management may immediately remove an employee (with pay) from the work area, without providing advance notification, when the employee's continued presence:

- May be harmful to the employee, other employees, and/or the general public;
- Makes it impossible for the department and/or City to conduct business; or
- May constitute negligence in regard to the City's duties to the public and/or other employees.

### **Disciplinary Actions**

Disciplinary action will normally fall into one of the following categories: reprimand, suspension, demotion, transfer, or dismissal. The disciplinary action depends upon the seriousness of the matter and/or whether it is a recurring concern or offense. Based on the conduct violation or unsatisfactory job performance, the employee's supervisor should issue disciplinary action as soon as possible. Disciplinary actions are listed below and include violations that are normally associated with each action. The listing is not intended to cover every possible type of offense or degree of discipline.

#### ***Reprimands***

Verbal and written reprimands are issued for offenses which are of minor severity but which require correction. The severity of the offense will determine whether a verbal (informal) or written (formal) reprimand is appropriate. If the condition is not corrected within a reasonable period of time, additional disciplinary action may result, up to and including termination. Examples are as follows:

- Unsatisfactory attendance
- Abuse of sick leave
- Abuse of City time, such as unauthorized time away from the work area or the use of City time to perform personal work
- Offensive language
- Conviction of a traffic violation while using a City vehicle
- Unsatisfactory job performance
- Unauthorized use of computers, software or data, or unauthorized disclosure of access methods or passwords when data has not been modified.
- Poor working relationships
- Conduct that is disruptive to City employment

### ***Verbal Reprimands***

Before receiving a verbal reprimand, the employee will be allowed to provide an explanation for the misconduct or poor job performance. If a reprimand is still to be issued, the supervisor must then advise the employee that a verbal reprimand is being issued, why the employee's performance or conduct is unacceptable, and a recommendation for correcting the behavior. The employee will also be advised that any further misconduct could result in a written reprimand. Depending on the seriousness, nature and type of misconduct, other disciplinary action may be issued instead. Copies of the documentation along with the Constructive Action Report should be provided by immediate supervisor to the employee, department director and Human Resources.

### ***Written Reprimands***

Misconduct or poor performance that takes place after a verbal reprimand has been issued will normally result in a written reprimand. Before receiving a written reprimand, the employee will be allowed to provide an explanation for misconduct or poor job performance. If a reprimand is still to be issued, the next level supervisor and/or department director must then advise the employee that a written reprimand will be issued indicating the nature of the misconduct. The employee will also be advised that any further misconduct could result in additional disciplinary action, up to and including termination. A copy of the written reprimand, along with the Constructive Action Report is retained by the supervisor and/or department director, with a copy to the employee, and the original to Human Resources.

### ***Suspensions***

Suspensions are temporary separations from City service for more serious violations that include, but not limited to the following:

- Failure to follow a supervisor's instructions or to perform assigned work
- Failure to abide by safety regulations
- Failure to abide by established City policies
- Reporting to work or working under the influence of alcohol or illegal substances
- Leaving the workplace without permission during working hours
- Unexcused absences
- Unauthorized use or misuse of City property or records
- Sleeping during working hours
- Receipt of a second active written reprimand

A Department Director may suspend an employee with or without pay. Deductions from pay of exempt employees may be made for one or more full days imposed in good faith for infractions of workplace conduct rules or for infractions of safety rules of major significance. Major significance includes those relating to the prevention of serious danger in the workplace or to other employees. Depending upon the circumstances and severity of the offense, a suspension without pay may be issued for more than five working days with the approval of the Human Resources Director and the City Manager.

Before receiving a suspension, the employee will be allowed to provide an explanation for the misconduct or poor job performance. If a suspension is still to be issued, the Department Director must then advise the employee that a suspension will be issued indicating the nature of the misconduct and any further action may be pending or could result in dismissal. A copy of the written suspension notice is given to the employee, the Department Director retains a copy and the original to Human Resources.

### ***Investigative Suspensions***

An employee may be suspended without pay during an investigation of alleged misconduct that is conducted at the request of City officials. An employee who is arrested for or charged with committing a felony, a crime of moral turpitude (crimes contrary to justice, honesty or good morals), or any offense that could directly affect public confidence in the employee's ability to perform City business will normally be suspended without pay.

After consulting with the Human Resources Director and legal consultant, the City may also conduct inquiries and/or tests, including drug and alcohol testing, as part of its investigation of alleged unacceptable conduct. These investigations and/or tests will follow accepted administrative policies and current laws. Before any suspension discussed in this section goes into effect, the employee will be notified verbally or in writing of the reasons for the suspension. The employee will also be allowed to offer an explanation as to why the suspension should be with pay. After consulting with the Human Resources Director and obtaining approval from the City Manager, the department director may approve a suspension with pay. The use of this procedure does not limit the disciplinary action that may be taken against the employee at the outcome of the investigation.

If the City investigation clears the employee of all alleged misconduct, the employee will be reinstated without loss of any benefits, pay, or City service credit. After the completion of the investigation, the City may impose disciplinary action, up to and including dismissal, where warranted. While on leave without pay, a suspended employee who wishes to continue benefits must pay the employee's share of the premium(s).

### ***Demotion as a Form of Disciplinary Action***

Disciplinary demotions may be made when an employee has displayed an inability to meet the essential job functions of the position. The employee may be assigned to a position in a lower salary grade provided the employee can perform the essential job functions and a position is available. Demotions must be authorized by the department director and approved by the City Manager.

### ***Dismissal***

Dismissals normally occur for violations that include but are not limited to the following:

- Deliberate disregard for a specific order or directive
- Absence for three consecutive working days without notifying the appropriate supervisor

- Use of alcohol while on the job; Use, possession, or sale of unlawfully possessed controlled substances while on the job
- Willfully falsifying or damaging City records or property
- Theft, unauthorized removal or unauthorized disclosure of City records, information or property
- Willfully violating safety rules where there is a threat to life or health
- Participating in a work slowdown, sit-down or strike
- Unauthorized use or unauthorized possession of firearms, dangerous weapons or explosives
- Threatening or harassing other employees or a member of the public
- Accepting or offering bribes
- Criminal conviction for conduct occurring on or off the worksite that is directly related to job performance or could directly affect public confidence in the employee's ability to perform City business
- The second active suspension notice or the third active written reprimand.

Dismissals may also be issued when the employee does not meet performance or conduct standards or the conditions of employment for the position. This may include unsatisfactory job performance that is documented through formal performance evaluations, failure to maintain valid licenses or other necessary job qualifications, and inability to perform essential job functions.

### **Investigations**

A supervisor shall report a violation of the law or a violation of these or other departmental regulations to the department director as soon as possible. The department director will investigate and determine the facts relative to the circumstances surrounding the alleged offense. At the discretion of the department director, written complaints against an employee and subsequent findings may be forwarded to the City Manager. Formal disciplinary actions must be reported immediately to the City Manager and Human Resources.

### **Procedural Guarantees**

Employees who serve in the Police Department in a sworn law enforcement capacity, firefighters, and emergency medical technicians are eligible for certain procedural guarantees provided by the Code of Virginia.

For the Police Department, the procedural guarantees apply to any sworn officer, other than the Chief of Police, who "in his official capacity, is authorized by law to make arrests and who is a non-probationary member" of the Police Department. These procedural guarantees provide an alternative to the City Grievance Procedure and can be found in Chapter 5 of Title 9.1 of the Code of Virginia, Sections 9.1-500 through 507.

For firefighter personnel, these procedural guarantees apply whenever an officer, a firefighter or an emergency medical technician is subjected to an interrogation that could lead to dismissal, demotion, suspension or transfer for punitive reasons. These procedures guarantees can be found in Chapter 3 of Title 9.1 of the Code of Virginia, Sections 9.1-300 through 9.1-304.

### **Employee's Right to Notice**

Before any written reprimand, suspension, demotion, or disciplinary transfer or dismissal, an employee must be given verbal or written notification of the offense by the appropriate supervisor, department director, or other City official. The employee shall have the right to offer an explanation

and/or contest the decision. The supervisor should consult with the Human Resources Director before issuing any of these actions.

Non-introductory full-time employees are entitled to use the City's Grievance Procedure for any matters relating to these Disciplinary Policies. Introductory employees are not entitled to use the Grievance Procedure unless they allege discrimination based on race, color, religion, age, sex, political affiliation, disability, veteran status or national origin. (See Chapter IX, "Complaint and Grievance Procedure," for more information.)

## **CHAPTER IX - COMPLAINT AND GRIEVANCE PROCEDURES**

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### **1. Purpose of Complaint and Grievance Procedures**

The City encourages employees and supervisors to first work out problems informally whenever possible, since most difficulties can be resolved through free and open discussion. However, if an agreement cannot be reached, the City's complaint and grievance procedures are designed to provide a method of open communication between the supervisor and the employee and to resolve work-related disputes that may arise within an employee's work environment. The purpose of these procedures is as follows:

- To provide employees with a method for having complaints considered rapidly, fairly, and without fear of reprisal
- To encourage employees to express themselves about work conditions that affect them as employees
- To assure employees that personnel actions will follow fair and uniform policies and procedures
- To increase the supervisor's sense of responsibility in dealing with employees
- To promote a better understanding of the City's policies and procedures

Any supervisor or other management official who makes a reprisal against an employee for filing a complaint or grievance may be subject to strict disciplinary action, including demotion and dismissal.

### **2. Coverage of Personnel**

All regular full-time employees under the jurisdiction of the City Manager may use the Complaint and Grievance Procedure except as noted in "Exclusions".

### **3. Exclusions**

The following categories of employees do not have access to the formal Grievance Procedure:

- Introductory employees;
- Appointees of elected groups or individuals;
- Department Directors;
- Constitutional Officers and employees of their offices;
- Law enforcement officers who have elected to pursue a grievance under the Code of Virginia, Chapter 5, Title 9.1.

An employee who has voluntarily resigned may not have access to the grievance procedure after the effective date of the resignation. Introductory and temporary employees may file a grievance if the complaint involves a charge of discrimination.

#### **4. Management Rights**

The City has the authority to organize and manage its human and material resources in order to provide efficient and effective services to its residents. Nothing in the Complaint and Grievance Procedures is intended to restrict or change the following management rights, so long as they are not exercised in an arbitrary and/or capricious manner:

- To direct the work of employees as well as establish and revise wages, salaries, position classifications and general employee benefits
- To hire, promote, transfer, assign and retain or dismiss employees
- To maintain the efficiency of City governmental operations
- To relieve employees from duties in emergencies
- To determine the methods, means and personnel to accomplish operations

#### **5. Definition of a Complaint (informal)**

A Complaint is defined as a concern or problem regarding working conditions or a decision made by the City that affects an employee's job that is not covered in the formal Grievance procedure.

#### **6. Informal Complaint Resolution Procedure**

It is the intent of the Complaint Resolution process to afford employees a voice in those matters that have a potential adverse, unjust, or inequitable affect on their employment conditions. Such issues may be honest differences of opinion, or judgment situations, but the City acknowledges the importance of their expression.

To express a concern, the employee should submit a written complaint to the immediate supervisor on the "Employee Report of Complaint" form within twenty (20) calendar days after the occurrence or condition that caused the complaint. (See appendices) The supervisor, and such management personnel as may be involved, should review the concern for the purpose of resolving the matter at the supervisory level in an attempt to reach a satisfactory solution. Every effort will be made to provide the employee with a written decision within ten (10) calendar days.

If the immediate supervisor does not resolve the concern, the supervisor and/or employee may request a review at the department director level within five (5) calendar days following receipt of the immediate supervisor's response. Every effort will be made to provide the employee with a written decision within ten (10) calendar days after receipt of the written Employee Report of Complaint.

If the matter is not resolved at this level, the department director or employee may refer the matter to the City Manager within five (5) calendar days following receipt of the immediate supervisor's response. Within five (5) calendar days following receipt of the department director's decision, the employee should arrange an appointment to present and discuss the issue with the City Manager. The City Manager, or his or her designee, will conduct an informal conference, review the facts, and issue a final determination as to a resolution of the concern. Records of each complaint and the resolution process will be maintained in the Human Resources Office. The Human Resources Director may assist in the process in order to assure that it is completed in a timely manner. On the basis of the information provided, or related written documents, the City Manager will render a final written decision to the employee and others within five (5) calendar days after the meeting.

## **7. Definition of Formal Grievance**

A grievance is defined as an employee dispute relating to their employment, generally resulting from a written reprimand, disciplinary action, or improper conduct which could result in a suspension, demotion, or termination, including but not necessarily limited to the situations outlined below under “Grievable Issues”. A grievant is an employee who files a grievance. An employee has the right to use the Grievance Procedure for any matter he or she believes needs to be formally addressed. When in doubt, the City Manager will determine whether an employee’s complaint will be resolved using the Grievance Procedure. If the City Manager determines that the complaint is not grievable, the employee may appeal the decision to the Martinsville Circuit Court.

## **8. Formal Grievable Issues or Disputes**

Following the Code of Virginia, the City has distinguished circumstances where a dispute will generally be determined grievable and situations where it will not. Issues or disputes related but not limited to the following will generally be found grievable:

- Disciplinary actions, including dismissals (whenever resulting from formal discipline or unsatisfactory job performance or an involuntary resignation), disciplinary demotions and suspensions, and written reprimands;
- The proper application or interpretation of personnel policies, procedures, rules and regulations;
- Acts of retaliation for using the grievance procedure or for participation in the grievance of another employee;
- Complaints of sexual harassment or discrimination on the basis of race, color, religion, national origin, sex, age, disability, or political affiliation; and
- Acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, or has sought any change in law before the Congress of the United States or the General Assembly.

## **9. Non-Grievable Issues**

The following matters are not grievable under this procedure:

- The contents of ordinances, statutes, or established personnel policies, procedures, rules and regulations;
- Work activity accepted by the employee as a condition of employment or work activity which may be reasonably expected to be a part of the job content, and the measurement and assessment of an employee’s work performance by a supervisor through an informal discussions, counseling session, formal performance evaluation or any other means. A performance evaluation shall be grievable where the employee can show that it was arbitrary or capricious, or was not conducted in accordance with established practice and procedure;
- Establishment and revision of wages or salaries, position classifications or general benefits;
- Failure to be promoted, except where the employee can show that established promotional policies or procedures were not followed or applied fairly;
- The methods, means, personnel and hours of work by which work activities are to be carried out, including the assignment to a particular shift, rotation of the work week, and the assignment and requirement of overtime;
- The hiring, promotion, transfer, assignment, reassignment, and retention of employees, provided such actions do not constitute disciplinary action;
- The relief of employees from duties of the City in emergencies;
- Any action which is necessary to comply with City, State or Federal law; and

- Discharge, demotion, transfer, reclassification, suspension or layoff because of lack of work, reduction in work force or job abolition, except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance. For grievances brought under this exception, the City's action will be upheld once it shows that a valid business reason existed for the action and the employee was notified of the reason in writing prior to the effective date of the action.

## **10. Grievability and Access to Procedure**

At the request of the department director or grievant, the City Manager will determine whether or not a complaint is grievable, provided the request is made subsequent to the reduction of the grievance to writing but prior to the second step meeting. Once raised, the issue must be resolved before further processing of the grievance. The *Determination of Grievability Form* must be used to make the request. The form is available through the Human Resources Office.

Within ten (10) calendar days of a request, the City Manger will review the decision, determine if the complaint is grievable, and notify the grievant and all other parties, in writing, of the decision. The City Attorney or Commonwealth Attorney shall not be authorized to decide the issue of grievability. Within ten (10) calendar days after the date of the decision, the grievant may appeal the City Manager's decision to the Martinsville Circuit Court. The grievant must initiate such an appeal, in writing, to the City Manager and must set forth the reasons why the grievant believes the grievance presents a grievable matter or is eligible for access to the grievance procedure.

Within five working days, the City Manager shall transmit to the Clerk of the Court a copy of the *Determination of Grievability Form* and any exhibits. A copy of the transmittal shall be provided to the grievant and to any other parties. The failure of the City Manager to transmit the record within the time allowed shall not prejudice the rights of the grievant. The court, on motion of the grievant, may issue a writ of certiorari requiring the City Manager to transmit the record on or before a certain date.

Within thirty (30) calendar days of receipt of such records, the Circuit Court, sitting without a jury, shall hear the appeal on the record transmitted by the City Manager and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The Court, in its discretion, may receive such other evidence as required. The Court may affirm the decision of the City Manager or may reverse or modify the decision. The decision of the Court shall be rendered no later than fifteen (15) days from the date of the conclusion of the hearing, and shall be final and may not be appealed.

The classification of a complaint as non-grievable shall not be construed to restrict any employee's right to seek, or management's right to provide, customary administrative review of complaints outside the scope of the grievance procedure.

## **11. General Provisions**

All stages of the grievance beyond the first complaint shall be in writing on forms supplied by the Human Resources Office. The grievant must bear any cost involved in employing representation or in preparing or presenting their case. Once an employee reduces the grievance to writing, the employee must specify the specific relief expected through use of this procedure.

## **12. Procedural Compliance**

After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure without just cause will result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) working days of receipt of written notification by the other party on the compliance violation. Such written notification by the grievant shall be made to the City Manager, who shall determine whether the noncompliance is substantial and without just cause. Failure of either party without just cause to comply with all substantial procedural requirements at the fourth stage hearing shall be resolved in favor of the other party.

## **13. Extension of the Time Periods**

The time periods outlined in this Chapter constitute substantial procedural requirements. However, such time periods may be extended by mutual agreement between the grievant and the appropriate supervisor to whom the time period is applicable.

The term **“Time Limits”** refers to consecutive calendar days. This means that the various consecutive calendar day periods referred to throughout this policy will include all leave days, holidays, and unauthorized absence time, as well as normal work days and weekend days for all employees.

## **14. Witnesses, documents and relevant evidence**

A. Witnesses may be called to offer evidence pertinent to the grievance and shall be excused upon completion of their statements. Otherwise, at the first and second step meeting, the only persons who may be present are the grievant and the appropriate supervisor at the level at which the grievance is being heard. At the third step meeting, the grievant, and a representative of their choice, may meet with the City Manager. If the grievant is represented by legal counsel, the City likewise has the option of being represented by counsel.

B. Absent just cause, all documents, as defined in the Rules of the Supreme Court of Virginia, relating to the actions grieved shall be made available, upon request from a party to the grievance, by the opposing party, in a timely fashion. Upon such request a party shall have a duty to search its records to ensure that all such relevant documents are provided. Documents pertaining to nonparties that are relevant to the grievance shall be produced in such a manner as to preserve the privacy of the individuals not personally involved in the grievance. A party shall not be required to create a document if the document does not exist. Any disputes as to production of such documents will be resolved, in the first three stages by the City Manager and at the fourth stage by the Hearing Officer.

C. Except in allegations of discrimination where the grievant is a member of a statutorily protected class, treatment or discipline of other employees shall not be considered as part of a grievance, nor shall evidence of such treatment or discipline be considered relevant.

## **15. Exceptions to Four-Step Procedure**

Employees of the City who wish to file a grievance must follow a step-by-step procedure, except as follows:

- (a) An employee whose immediate supervisory level is above that which is set forth in Step I, and below the supervisory level as set forth in Step III, shall initiate their grievance with the next level of supervision using the appropriate step level fitting the particular situation. The initial procedure for filing such a grievance shall be set forth in that step.

- (b) Departments and offices which do not have the number of levels or supervision paralleling the supervisory levels as set forth in the steps of this grievance procedure, may omit non-applicable intermediate steps, provided, however, the initial procedure for filing a grievance shall conform to the requirements of the step in which the employee initiates the grievance.

## **16. Supervisory Steps**

**A. First Step** - Within twenty (20) calendar days after the occurrence or condition giving rise to the grievance, the employee affected must identify the grievance verbally to the employee's immediate supervisor. Within ten (10) calendar days of such presentation, the supervisor shall give his/her response to the employee with respect to the grievance. If a satisfactory resolution is not reached by this process, the employee shall reduce the grievance to writing, identifying the nature of the grievance and the expected remedy on the grievance form. Such written grievance shall be presented to the immediate supervisor within ten (10) calendar days of the immediate supervisor's verbal reply. The immediate supervisor must then reply in writing within ten (10) calendar days.

**B. Second Step** - If a satisfactory resolution is not reached at the first step, the employee may submit the grievance to the department director. Submission to the second step must occur within ten (10) calendar days of the first step reply. The department director shall meet with the employee within ten (10) calendar days, and render a written reply to the grievance within ten (10) calendar days following the second step meeting.

**C. Third Step** - If a satisfactory resolution is not reached at the second step, the employee may submit the grievance to the City Manager. Submission to the third step must occur within ten (10) calendar days of the second step reply. The City Manager shall meet with the employee within ten (10) calendar days, and render a written reply to the grievant within ten (10) calendar days following the third step meeting.

## **17. Fourth Step Hearing**

Within ten days after the City Manager's reply in the Third Step, the grievant may request in writing to the City Manager review by a Fourth Step Hearing.

## **18. Hearing officers; duties.**

A. Nothing in this policy shall create, nor shall be construed to create, a property interest in selection or assignment to serve as a hearing officer for grievance hearings.

B. The Director of the Commonwealth's Department of Employment Dispute Resolution shall assign a hearing officer to conduct the grievance hearing. All hearing officers shall be selected, on a rotating basis, (i) from the list of administrative hearing officers maintained by the Supreme Court of Virginia pursuant to § 2.2-4024 or (ii) from attorneys hired as classified employees by the Department through a competitive selection process. Hearing officer fees shall be reasonable, in accordance with compensation guidelines developed by the Department of Employment Dispute Resolution. In addition to the training requirements imposed by the Supreme Court, each hearing officer shall meet the criteria established by the Director pursuant to subdivision 6 of § 2.2-1001 and attend annually at least one day of training in employment law or state personnel policies and organizations. The training shall be conducted by the Department of Employment Dispute Resolution or an organization approved by the Virginia State Bar for continuing legal education.

C. Hearing officers shall have the following powers and duties:

1. Hold conferences for the settlement or simplification of issues;
2. Dispose of procedural requests;
3. Issue orders requiring testimony or the production of evidence;
4. Administer oaths and affirmations;
5. Receive probative evidence; exclude irrelevant, immaterial, insubstantial, privileged, or repetitive proofs, rebuttals, or cross-examinations; rule upon offers of proof; and oversee a verbatim recording of the evidence;
6. Receive and consider evidence in mitigation or aggravation of any offense charged by an agency in accordance with rules established by the Department of Employment Dispute Resolution pursuant to Code of Virginia § 2.2-1001; and
7. Take other actions as necessary or specified in the grievance procedure.
8. The conduct of the hearing shall be as follows:
  - a. The Hearing Officer shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing; whether the number of witnesses to be heard shall be limited; whether only one witness shall be allowed in the room at one time; and whether cross-examination of witnesses and/or the parties involved shall be allowed.
  - b. The Hearing Officer may at the beginning of the hearing ask for statements clarifying the issues involved.
  - c. Exhibits, when offered by the grievant or by the City, may be received in evidence by the Hearing Officer and, when so received, shall be marked and made a part of the record.
  - d. The grievant and the City, or their representatives, shall then present their claims and proofs and witnesses who shall submit to questions or other examination. The Hearing Officer may, at its discretion, vary this procedure but shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant proofs.
  - e. The parties may offer evidence and shall produce such additional evidence as the Hearing Officer may deem necessary to an understanding and determination of this dispute. The Hearing Officer shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the Hearing Officer and of the parties.
  - f. The Hearing Officer Chairperson shall specifically inquire of all parties whether they have any further proof to offer or witnesses to be heard. Upon receiving negative replies, the Hearing Officer shall declare the hearing closed.
  - g. The hearing may be reopened by the Hearing Officer on its own motion or upon application of a party for good cause shown at any time before the award is made.
  - h. The Hearing Officer may decide procedural questions and rule upon objections raised during the course of the hearing.

**19. Scope of hearing officer's decision.**

A. For those issues qualified for a hearing, the hearing officer may order appropriate remedies. If the hearing officer finds that the employee has substantially prevailed on the merits of the grievance, the employee shall not be entitled to recover reasonable attorney fees. All awards of relief by a hearing officer must be in accordance with rules established by the Department of Employment Dispute

Resolution, and the non-prevailing party shall bear the costs for the hearing officer and other associated hearing expenses that the hearing officer may award.

B. The decision of the hearing officer shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, including any award of reasonable attorney fees pursuant to this section, and (iii) be final and binding if consistent with law and policy.

C. The Hearing Officer has the responsibility to interpret the application of City policies and procedures in the case. He does not have the prerogative to formulate or to change policies or procedures.

D. The decision of the Hearing Officer shall be final and binding in all its determinations, and shall be consistent with provisions of law and written policy. The question of whether the relief granted by the Hearing Officer is consistent with written policy shall be determined by the City Attorney.

## **20. Review of hearing decisions; costs.**

A. Upon the request of a party to a grievance hearing for an administrative review of the hearing decision, the City Attorney shall determine, within 60 days of receipt of such request, whether the hearing decision is consistent with law and written policy.

B. Within 30 days of a final decision, a party may appeal on the grounds that the determination is contradictory to law by filing a notice of appeal with the clerk of the circuit court in the jurisdiction in which the grievance arose. After a notice of appeal has been filed by either party, the City Attorney shall then transmit a copy of the grievance record to the Clerk of the Circuit Court. The court, on motion of a party, shall issue a writ of certiorari requiring transmission of the record on or before a certain date. Within 30 days of receipt of the grievance record, the court, sitting without a jury, shall hear the appeal on the record. The court may affirm the decision or may reverse or modify the decision.

C. The Hearing Officer's final decision shall be effective from the latter of the date issued or the date of the conclusion of any administrative review and judicial appeal, and shall be implemented immediately thereafter, unless circumstances beyond the control of the agency delay such implementation.

D. Either party may petition the circuit court for an order requiring implementation of the final decision or recommendation of a hearing officer.

E. The court may award reasonable attorneys' fees and costs to the employee if the employee substantially prevails on the merits of a case brought under subsection B or D.

## **21. Protective Services Procedural Guarantees**

A. Title 9.1 of the Code of Virginia contains several procedural guarantees for law enforcement officers and firefighters. These apply before any dismissal, demotion, suspension without pay, or transfer for punitive reasons may be imposed on an officer, or whenever a firefighter is subjected to an interrogation which could lead to a similar action. The investigation/interrogation must be conducted in accordance with requirements of the State Code. The guarantees do not prohibit the informal counseling of an employee by a supervisor in reference to a minor infraction of policy or procedure which does not result in disciplinary action being taken against the employee.

***B. Law Enforcement Officers*** - before any dismissal, demotion, suspension without pay, or transfer for punitive reasons may be imposed, the following must be complied with:

- The law enforcement officer shall be notified in writing of all charges, the basis therefore, and the action which may be taken.
- The officer must be given an opportunity, within a reasonable time limit after the date of the written notice provided for above, to respond orally and in writing to the charges. The time limit shall be determined by the Police Chief, but in no event shall it be less than five (5) calendar days unless agreed to by the officer.
- In making his/her response, the officer may be assisted by counsel at his/her own expense.
- The officer shall be given written notification of his/her right to initiate a grievance under this procedure. The officer shall be provided with an additional copy of the grievance procedure upon request.

The officer may, within a reasonable amount of time, request a hearing to be conducted in accordance with Title 9.1-504 of the State Code. In lieu of following the notice of charges steps listed above, the Police Chief may give the officer a written statement of the charges, basis for the action which will be taken, and provide a hearing as provided for in the State Code prior to taking the action. The recommendations of the Hearing Officer shall be advisory only, but shall be accorded significant weight.

A law enforcement officer may proceed under the grievance procedure or the procedural guarantees, but not both.

**C. *Firefighters*** - the procedural guarantees for firefighters include the following:

- The interrogation shall take place at the facility where the investigating officer is assigned at the facility which has jurisdiction over the place where the incident under investigation allegedly occurred
- No firefighter shall be subjected to interrogation without first receiving written notice of sufficient detail to reasonably notify the firefighter of the nature of the investigation.
- All interrogations shall be conducted at a reasonable time of day, preferably when the firefighter is on duty, unless the matters being investigated are of such a nature that immediate action is required.
- The firefighter under investigation shall be informed of the name, rank, and unit or command of the officer in charge of the investigation, the interrogators, and all persons present during the interrogation.
- Interrogation sessions shall be of reasonable duration and the firefighter shall be permitted reasonable periods for rest and personal necessities
- The firefighter being interrogated shall not be subjected to offensive language or offered any incentive as an inducement to answer any questions.
- If a recording of any interrogation is made, and if a transcript of such interrogation is made, the firefighter under investigation shall be entitled to a copy without charge. Such record may be electronically recorded.

No firefighter shall be discharged, disciplined, demoted, denied promotion or seniority, or otherwise disciplined or discriminated against in regard to their employment, or be threatened with any such treatment as retaliation for or by reason solely of their exercise of any of the rights granted or protected by these guarantees.

## CHAPTER X – TERMINATIONS

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### **Resignations**

In order for the City to make proper provisions to fill a position, a regular full-time employee is required to give the immediate supervisor at least a two weeks' written notice. In some departments, notices of longer duration may be required. Failure to give the required notice may affect the employee's eligibility for re-employment with the City. All resignations are filed with the Human Resources Office. Employees who leave City service must return all City property in their possession to the appropriate department. This includes items such as manuals, identification cards, books, badges, credit cards, keys, uniforms and tools. The employee will not receive payment for accumulated annual leave until all City property is returned and any debt to the City is settled.

### **Exit Performance Interview**

Prior to an employee's termination date, the immediate supervisor and/or department director and Human Resources Director will conduct an exit interview. Documentation will be forwarded to the Human Resources Office.

### **Reduction in Force**

When material changes in duties, needs of the organization, or a shortage of funds occur so that the City can no longer support certain programs or services, the City may first temporarily place an employee or group of employees on unpaid leave, or develop other alternatives to avoid a possible layoff such as job sharing and/or reducing working hours. Unless otherwise directed by the City Manager or his designee, department directors will identify prospective job classifications and/or positions to be eliminated, combined, those that can be held vacant, and/or staff members to be temporarily placed on leave or laid off. (See Policy PA-20)

In determining those employees **to be retained from a reduction in force or placed on temporary unpaid leave**, priority will be given to those employees who are full-time, regular (non-probationary) benefited employees. In addition, emphasis will be placed on the following factors:

- 1) The organizational needs of the City. Mandated, operational, and service demands of the City will be given first priority in determining which positions will be eliminated. The current or known future vacancies may be abolished or remain unfilled long enough to achieve the required results without unduly disrupting the delivery of such services.
- 2) The quality of employee's past performance. An employee's performance in his/her existing job will be considered, as well as the individual's special skills, knowledge, and qualifications needed to fulfill functions within the work unit/department.
- 3) Seniority. While the City considers tenure a valuable attribute, allowing senior employees to replace or "bump" junior employees from their positions will not be permitted. Seniority may be the determining criteria where two employees are equally qualified.

The City Council may, by resolution, provide job assistance, severance pay, and other benefits that it deems appropriate in a reduction in force situation. An employee who is rehired by the City within two (2) years of a layoff will receive full credit for their previous service time for purposes of calculating any internal City benefits that are based on length of service. Employees who are laid off because of a Reduction in Force shall be given at least fourteen (14) calendar days notice of anticipated layoff date. If

this is not possible, such employees will receive up to two (2) workweeks compensation in lieu of notice in addition to any other benefits/considerations noted earlier.

**Retirement**

There is no mandatory retirement age for most municipal employees, except where special mandatory requirements have been imposed upon firefighters and law enforcement officers. The Virginia Retirement System provides a package of benefits for eligible members based on an employee’s age at retirement, average final compensation, and years of service. For specific information, contact the Human Resources Office. An employee may elect early retirement as defined by the Virginia Retirement System. Specific criteria are available in the Human Resources Office.

**Retirement Stipend**

Based on years of service and sick leave accumulated at the time of retirement, employees who retire in good standing and are eligible for either regular or disability VRS retirement benefits, OR retire at or after age 62 with at least five continuous years of service, will receive a retirement stipend. The minimum gift shall be \$100; a larger award may be available according to the *Retiree Stipend* schedule listed below.

<b>Years of Service</b>	<b>Payment</b>
0-10 years	\$100.00 for no current employee sick leave balance or 25% of value of employee’s current sick leave up to \$500.00
11-15 years	25% of value of employee’s current sick leave up to \$750.00
16-20 years	25% of value of employee’s current sick leave up to \$1,000.00
21-25 years	25% of value of employee’s current sick leave up to \$1,250.00
26-30 years	25% of value of employee’s current sick leave up to \$1,500.00
31-35 years	25% of value of employee’s current sick leave up to \$1,750.00
36+	25% of value of employee’s current sick leave up to \$2,000.00

Subject to VRS criteria, all or a portion of the Retirement Stipend (payment of unused sick leave at retirement) may be used to purchase VRS service credit for unreduced benefits on an actuarial equivalent rate.

**Terminal Pay**

The Finance Office, the respective department director and Human Resources will determine the final pay of all employees under the jurisdiction of the City Manager who leave City service. Pay will be made in accordance with applicable Federal and State law.

**CHAPTER XI - MISCELLANEOUS ISSUES**

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**Violence Prevention**

The City does not tolerate employee violence or threats of violence on City property or on City time. The City strives to provide each employee with a safe working environment and to provide our customers with a comfortable business climate. Employees who jeopardize this safe atmosphere by engaging in violent behavior will be disciplined, up to and including discharge for a first offense. Any employee with knowledge of any violation of this policy should report to his or her supervisor, department director, or the City Manager without delay. The unauthorized possession of firearms, illegal

knives, blackjacks, explosives, or other weapons on City property or on City time is absolutely prohibited. Violation of this rule warrants discharge for a first offense.

Violent behavior includes fighting, threats, harassment, verbal assault, and other aggressive or intimidating behavior that places another individual in discomfort or fear for his or her well-being. If an employee is subjected to violent behavior, the employee should inform his or her supervisor instead of responding with violence. An employee should not escalate a potentially hostile situation.

## **Safety**

Every employee is entitled to work under the safest conditions possible. Accidents can be prevented or limited by the support of management and supervision of an effective safety program and through employee awareness of the hazards of their occupation. This will be accomplished through the development of safety-related policies and procedures, technical assistance, inspections and audits of City facilities/operations, and related safety training for City employees. While general safety rules and procedures may apply to all City employees, each department may have the need for specific rules that address safety issues that are unique to that department. The City will make reasonable efforts to promptly investigate and address health and safety issues, not require employees to perform tasks that are dangerous to the health and safety without adequate training and safety equipment, and make readily accessible information on hazardous materials.

Employees should familiarize themselves and comply with all safety policies that apply to their workplace; attend all training mandated by City policies and/or their supervisor; use appropriate safety devices and personal protective equipment; maintain their workplace in a safe manner; and report accidents and unsafe working conditions to their supervisors. An employee who finds any apparent defect in City equipment must report it to the appropriate supervisor as soon as possible, preferably before beginning the shift. Any accident involving City equipment must also be reported to the appropriate supervisor regardless of the cause. An employee or group of employees who refuse a work assignment because of a reasonable belief that to perform such work would endanger his/her physical safety beyond the normal hazards of the occupation or violates safety standards, should use the City's complaint procedures.

Employees shall not be required to resume the disputed work until the alleged hazard is corrected, the complaint process is completed or a determination has been made by a qualified person stating the work is not unsafe or dangerous. No employee who refuses to perform work in accordance with this policy shall be disciplined or retaliated against or lose the right to perform the work once the hazardous condition has been corrected.

## ***Policy Violations***

Violations of this policy may result in disciplinary action up to and including termination. All employees are responsible for notifying supervisors or managers of any behavior they or another person have witnessed on City premises or connected to City employment which they regard as unsafe. Supervisors that become aware of or have a reasonable expectation to be aware of safety violations are subject to disciplinary action per City policy. An employee who has previously reported a safety violation and feels the unsafe practice has been unresolved may by-pass their immediate supervisor and take the issue up the chain-of-command. Management will not tolerate act(s) of retaliation by a supervisor when this occurs.

## **Drug and Alcohol Abuse**

The City has long been committed to a safe and healthy working environment for its employees. Additionally, we have an obligation to our customers and the general public to conduct our operations safely and efficiently. With this commitment and obligation in mind, the City is reaffirming its rule prohibiting alcohol and drug abuse. The City is also reaffirming its willingness to assist employees with alcohol or drug related problems to find the appropriate treatment for rehabilitation and recovery.

In accordance with our long-standing policy, this notice is to reemphasize to our employees (and employees of other companies and contractors) that the abuse of drugs and alcohol poses a serious threat to the safety of our employees and to the City's operations. A copy of the complete policy is available in the Human Resources Office. Accordingly, the use, possession, being under the influence or having a detectable presence of drugs or alcohol in one's system (except where expressly authorized) or manufacture, distribution or sale of such substances on City premises or on-the-job, or off-the-job abuse of such substances which adversely affects or threatens to adversely affect an employee's job performance or other City interests is prohibited.

"Drugs" and "alcohol" include any substance with the potential to produce the effects of intoxication and/or the potential to produce physical, mental, emotional or behavioral changes that could adversely affect an employee's ability to perform his job safely and efficiently. This prohibition includes any prescription or over-the-counter drug unless an employee's possession and use of such drug on City premises, or on-the-job, is expressly authorized. The term "City premises" in this notice is used in its broadest sense and includes all land, property, buildings, structures, cars, trucks, and all other means of conveyance owned or leased by the City, or otherwise being utilized for City business. The term "on-the-job" includes paid and unpaid meal periods during the business day and paid and unpaid overtime.

Employees who have drug and/or alcohol abuse problems are encouraged to request assistance through the City's employee-assistance program or through other appropriate community agencies. The City will take no disciplinary action against an employee who voluntarily seeks such assistance prior to the City's determination that the employee is violating this policy. The existence of, or employee participation in, an employee-assistance program does not, however, relieve any employee from compliance with the terms of this notice or other applicable standards governing performance and conduct.

Employees who violate this Drug and Alcohol Abuse Policy will be subject to disciplinary action up to and including discharge and may be allowed to participate in EAP-approved treatment as an alternative to discharge. Employees of independent contractors and temporary agency employees who violate this policy will not be allowed to perform additional services on behalf of the City.

To further insure safe and healthy working conditions, the City may request an employee to participate in drug or alcohol testing for justifiable reasons. The City also reserves the right to take other justifiable measures, including the inspection of all City premises and the personal property of employees on City premises in order to insure compliance with this policy.

Participation in such testing and inspection is voluntary, but employees who refuse shall be deemed in violation of this policy that will result in termination of employment. Contract employees who refuse shall not be permitted to perform further work for the City.

All records and information obtained by the City regarding alcohol and drug testing, the test results and treatment of employees for chemical dependency will be confidentially maintained by

restricting access on a need to know basis to those designated by management. Cooperation in the enforcement of this policy will assist the City in providing employees with a healthy and safe work and patient care environment.

### **Political Activity**

City employees shall serve all citizens equally. In no way shall the amount or quality of service an individual receives from the City be affected by the resident's political opinions or affiliations. Prior to engaging in any political activity, an employee should determine whether such activity conflicts, either actually or potentially, with the proper performance of his/her regular duties.

#### ***Restricted Activities***

Officials and employees of the City shall not:

a. While on duty or in the work place:

- (1) Use their official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for political office;
- (2) Coerce, solicit, or compel contributions for political or partisan purposes by another employee;
- (3) Actively campaign for a candidate or for a partisan issue; or
- (4) Wear political badges.

b. Be required as a duty or condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes.

c. Use city funds, supplies, equipment, office uniforms, the City logo or seal for partisan or political purposes.

d. Suggest or imply that the City has officially endorsed a political party, candidate or campaign.

#### ***Permissible Activities***

Nothing in this policy shall be construed to prevent any employee from becoming or continuing to be a member or officer of a political party; attending a political meeting while off duty; or from enjoying freedom from all interference in casting his/her vote.

While off duty, not in uniform, and not on City premises, employees may:

- a. Take active part in any political campaign, wear or distribute badges, distribute pamphlets or handbills favoring or opposing any candidate for nomination or election to public office. Employees may place political or partisan bumper stickers on their private vehicles. Employee may place political and partisan signs on their private property as long as they comply with relevant sign requirements.

- b. Attend political or partisan meetings; advocate or support issues or candidates of their choice, including donations and the use of their personal names in an advertised list of supporters.
- c. Vote in political or partisan elections.
- d. Solicit voluntary contributions or donations to partisan or political purposes from another employee but not in the workplace.
- e. Be an affiliate, member, or other officer in a political or partisan civic organization; however, while on duty or in the work place, the employee may not carry out any duties either as a volunteer or an officer.

### ***Violations***

Any employee in violation of this policy shall be subject to disciplinary action up to and including dismissal.

### **Personal Use of City Time, Telephones and Equipment**

Employees will report to work as scheduled and make every effort to use time wisely for completing assigned duties. Any use of the City's mailing address for personal use or benefit is prohibited. Employees must give prompt, courteous attention to all citizens who call with a complaint or a question. If an employee cannot answer the question or handle the complaint, the caller should be transferred to someone who can, or the caller's number should be taken for a call back.

The City provides telephones, including mobile communication devices, for employees who need them to conduct City business. Although cell phones have become valuable in conducting business and more employees are using them to perform their jobs, cell phones may increase the risk of highway accidents. As a result, employees are discouraged from using a cellular phone while operating a vehicle.

In unusual or emergency circumstances, employees may make personal long-distance calls, which must be charged to the employee. Employees are expected to exercise discretion in using personal cell phone as is expected for the use of city phones. Excessive personal calls during the workday, regardless of the phone used, can interfere with employee productivity and be distracting to others. A reasonable standard is to limit personal calls during work time. Employees are asked to make friends and family members aware of the City's policy. Flexibility is allowed in circumstances requiring immediate attention. Excessive use of the telephone for personal reasons may be cause for disciplinary action, up to and including termination.

### **Personal Use of Computers, Internet, and E-Mail**

#### ***Personal Computers***

Computer use and all forms of electronic communications are provided to employees for the benefit of the City and its customers. It is the responsibility of the employee to protect computer resources from physical and environmental damage. This responsibility includes operating the equipment in a secure manner, procuring effective maintenance, and safeguarding the equipment from damage. All computer equipment used on City premises is considered City property. Only authorized personnel may reconfigure hardware or add/delete software as deemed necessary. Users are not permitted to copy, transfer, rename, add or delete information or programs belonging to other users unless given express permission to do so. Failure to observe copyright or license agreements may result in disciplinary action or legal action by the copyright owner.

The addition of personally owned hardware or software is not permitted unless authorized by the City, and become the property of the City. The Manager of Information Services must recommend any exceptions to this policy to the City Manager prior to the use of such equipment.

User identification numbers (ID) and passwords help maintain individual accountability for resource usage. Any employee who obtains a password or ID for an Internet resource or software access must keep that password confidential. The City prohibits the sharing of user ID's or passwords.

### ***Electronic Mail and Computer Files***

E-mail and other computer files are a method of enhancing the performance of City business and should be treated as an official communication from a representative of the City of Martinsville. E-mail is a non-secure method of communication. Confidential or sensitive information should not be included in e-mail. Although e-mail files may have been deleted, they are susceptible to being retrieved and subject to the Freedom of Information Act.

Employees shall refrain from using e-mail to display, discuss, generate, or transmit material that is inappropriate, offensive, unlawful, obscene, defamatory, harassing, or discriminatory as defined by the City Manager. Employees who abuse or violate this policy are subject to disciplinary action, including and up to termination. To ensure the appropriate use or when considered a business necessity, the City reserves the right to enter, search and monitor the computer network, files or e-mail of any employee without advance notice.

### ***Internet Access***

Internet access is provided as a means of enhancing productivity in the workplace and providing a method by which employees can keep informed on issues that affect their job. However, unlawful Internet usage may also create negative publicity for the City and expose it to significant legal liabilities. While searches will be part of the process of finding useful information, employees may not use the Internet connection provided by the City to seek information that is unrelated to their work.

Employees are responsible for the content of all text, audio, or images that they place or send over the Internet. Internet messages are public communication and can be disclosed to law enforcement or other third parties without prior consent of the sender or receiver. Accessing sites that contain fraudulent, harassing, or sexually explicit information, or advocate unlawful activity are prohibited. Messages with derogatory or inflammatory remarks about an individual or group's race, religion, national origin, physical attributes, or sexual preference shall not be transmitted.

The City reserves the right to monitor all network traffic including local and wide area sites visited on the Internet by employees as deemed necessary and appropriate. Excessive or inappropriate use of the Internet for non-business purposes may result in disciplinary action, up to and including termination.

### ***Viruses***

Viruses have the potential to cause drastic damage to both personal computer and the network servers. Any computer that is attached to the City network must have virus protection installed. Removal of any virus scanning software will be considered a disciplinary offense. Entry points for viruses include files that are downloaded from the Internet as well as files brought into work from other sources. Employees should take precaution in downloading software from the Internet without permission from management.

## **Solicitation**

City employees are not permitted to sell items for personal gain to other employees or members of the general public during regular office or work hours. Other forms of solicitation will not be permitted in any City buildings, except as approved by the City Manager or sponsored by the City Council.

## **Gifts**

City employees are in a position of public trust and may not accept gifts, gratuities, favors or rewards for any services they perform in connection with City employment. In addition, it is unlawful to solicit, offer or accept money or anything of value in exchange for an appointment, promotion, or special privileges with the City. These limitations are not intended to prevent employees from accepting articles of little value that may be distributed by other City employees or citizens. Violation of this policy could result in disciplinary action up to and including termination.

## **Conflict of Interest**

City employees are prohibited from using information they have gained while performing their job to further their personal interests. Violation of this policy may result in disciplinary action up to and including termination.

## **Confidentiality of Records**

Many City employees will work in positions where confidential information is handled concerning the plans and affairs of the City, their department, proprietary information used for internal purposes only, or other employees. Employees cannot discuss such plans or records with persons not authorized to have access to this information. If an employee is uncertain about releasing information, he or she should refer the individual requesting the information to the appropriate department director or other City official.

## **City Vehicles and Equipment**

Employees who use City owned vehicles or equipment are accountable for their proper use and maintenance. Any defects noted must be reported to the employee's supervisor as soon as possible. City owned vehicles and/or equipment shall not be used for personal use. The established safety procedures must be followed while using City vehicles:

- All employees who operate a City vehicle must possess a valid operator's license and maintain a satisfactory driving record. If the employee's license is suspended or revoked, the employee must notify their supervisor immediately. Suspension or revocation of one's driver's license may be sufficient grounds for demotion or dismissal. In addition, employees who will be driving larger vehicles must possess the appropriate Commercial Driver's License (CDL).
- When an accident investigation involving any City vehicle concludes beyond a reasonable doubt that negligence or recklessness was involved on the part of the employee, driving privileges may be suspended and/or other disciplinary action, up to and including termination, may be taken as deemed appropriate by the department director. At the discretion of the department director, any employee with an unreasonable number of

accidents involving a City vehicle may have driving privileges suspended and/or other disciplinary action, up to and including termination.

Temporary employees age 24 and under, or any employee with an impairment that might reduce the ability to operate equipment safely, will not be allowed to operate any City vehicle or equipment unless specifically authorized by the department director.

- Any employee paid a vehicle allowance for the use of his/her private vehicle shall be required to carry private insurance of at least the following levels: \$100,000 for property damage, \$300,000 for liability, and \$50,000 for medical expenses.
- Except in specific instances involving the use of emergency vehicles or as authorized by the department director, employees who drive a City vehicle or operate City equipment must wear seatbelts. This requirement also applies to passengers riding in a City vehicle as well as employees who receive a travel allowance.

### ***Vehicle Accidents***

If an employee is in an accident involving a City-owned vehicle, the appropriate supervisor must be contacted immediately. Where the accident involves bodily injury or property damage (regardless of the damage), law enforcement personnel must be notified. (See specific details and requirements located in the Appendixes.)

### ***Non-Vehicular Accidents***

City employees who are involved in an accident or incident which involves City property and in which a citizen feels the City should bear responsibility or liability should observe the following requirements:

- Do not admit any liability on behalf of the City.
- Render any aid or assistance that may be required, including calling for medical assistance.
- Attempt to identify the person involved, if a person has been injured, or identify the property owner if personal or real property has been damaged.
- Try to obtain names and addresses of any witnesses.
- Report the accident or incident to his/her supervisor immediately (over radio) if possible or as soon as possible otherwise.
- Instruct any individual who wishes to file a claim that the City is insured. Claims must be filed, in writing, with the Finance Director, and must describe all of the circumstances and why the City should bear any responsibility for damages.
- Report the accident or incident to the City's insurance carrier as soon as possible. Supervisors are responsible for insuring that the accident is promptly reported. If the employee is unable to personally report the accident, the supervisor should do so.

### **Harassment**

It is the City's policy that harassment based on sex (with or without sexual conduct), race, color, religion, national origin, age, disability, and protected activity will not be tolerated. The policy applies to all applicants and employees, whether related to conduct engaged in by fellow employees or someone not directly connected to the City. Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings and business-related social events.

## **Sexual Harassment**

Sexual harassment constitutes discrimination and is illegal under federal, state and local laws. For the purpose of this manual, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

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

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; leering, whistling or touching; insulting or obscene comments or gestures; sexual or discriminatory displays or publications anywhere in the workplace; and other physical, verbal, or visual conduct of a sexual nature, such as:

1. Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, or other materials that are sexually suggestive, sexually demeaning, or pornographic, or bringing into the work environment or possessing any such material to read, display or view at work. A picture will be presumed to be sexually suggestive if it depicts a person of either sex who is not fully clothed or in clothes that are not suited to or ordinarily accepted for the accomplishment of routine work in and around the workplace and who is posed for the obvious purpose of displaying or drawing attention to private portions of his or her body.
2. Reading or otherwise publicizing in the work environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning or pornographic;
3. Displaying signs or other materials purporting to segregate an employee by sex in any Area of the workplace (other than restrooms and similar semi-private lockers/changing rooms).

## **Other Forms of Harassment**

Harassment on the basis of any other protected characteristic is also strictly prohibited. The City will make every reasonable effort to ensure that all concerned are familiar with these policies and aware that any complaint in violation of these policies will be investigated and resolved appropriately. Any employee who has any questions or concerns about these policies should discuss them with the Human Resources Manager.

Under this policy, harassment is electronic, verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of race, color, religion, sex, sexual orientation, national origin, age, disability, marital status, citizenship or any other characteristic protected by law or that of his/her relatives, friends or associates, and that:

- has the purpose or effect of creating an intimidating, hostile or offensive work environment;
- has the purpose or effect of unreasonable interfering with an individual's work performance; or
- otherwise adversely affects an individual's employment opportunities.

## **Reporting an Incident of Harassment, Discrimination or Retaliation**

The City encourages reporting of all perceived incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. Individuals who believe that they have been the victims of such conduct should discuss their concerns with their immediate supervisor or the Human Resources Director.

In addition, employees who believe that they are being subjected to such conduct should promptly advise the offender that the behavior is unwelcome and request that it be discontinued. This action alone may resolve the problem. However, an employee may prefer to pursue the matter through informal or formal complaint procedures.

### ***Informal Complaint Procedure***

If for any reason an individual does not wish to address the offender directly, or if such action does not successfully end the offensive conduct, the employee should notify his/her immediate supervisor or the Human Resources Director, who may, if the individual so requests, talk to the alleged offender on the individual's behalf. In addition, these may be instances in which an employee seeks only to discuss matters with the Human Resources Director and such discussion is encouraged.

An employee who reports harassment, discrimination, or retaliation should be aware that it may be necessary to conduct an investigation beyond the informal discussion. This decision will be discussed with the employee. The informal procedure is not a required first step for the reporting individual.

### ***Formal Complaint Procedure***

Employees who believe that they have been the victim of conduct prohibited by this policy statement or believe they have witnessed such conduct should discuss their concerns with the Human Resources Director. The prompt reporting of complaints or concerns is encouraged so that rapid and constructive action can be taken before relationships become irreparably strained. While no fixed reporting period has been established, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment.

### ***Prompt Investigation***

Any reported allegations of harassment, discrimination or retaliation will be investigated promptly. The investigation may include individual interviews with the parties involved, and where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

## **Confidentiality**

Confidentiality will be maintained throughout the investigation process to the extent consistent with adequate investigation and appropriate corrective action.

## **Retaliation Prohibited**

Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy and like harassment or discrimination itself, will be subject to disciplinary action. Acts of retaliation should be

reported immediately and will be promptly investigated and addressed. Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. Responsive action may include training, referral to counseling and/or disciplinary action up to and including termination. False and malicious complaints of harassment, discrimination or retaliation as opposed to complaints that, even if erroneous, are made in good faith, may be the subject of appropriate disciplinary action.

### **Conduct and Appearance**

As representatives of the City, it is important that employees be well groomed, neat, and dressed appropriately for their job functions in order to project a professional and favorable appearance with the City's customers. Because of business or safety considerations, some departments may require more stringent dress and/or appearance requirements than others. Radical departures from conventional dress or personal grooming and hygiene standards are not permitted. In addition, the City expects employees to maintain a neat work area.

Employees who have regular contact with the public must comply with the following personal appearances standards:

- a. Garments should be clean and in good condition.
- b. A reasonable standard of dress rules out tight, suggestive, or sexually provocative attire, shorts, or similarly revealing clothing. Clothing that exposes undergarments is not permitted.
- c. Employees should not wear T-shirts, caps, or hats that display implied or stated profanity, illegal, racial, or sexual connotations, or wear novelty buttons and similar items that do not present a businesslike appearance.
- d. Employees should be clean and demonstrate acceptable personal hygiene at all times. Hair should be clean, combed, and neatly trimmed or arranged. Shaggy, unkempt hair is not permissible regardless of length. Sideburns, moustaches, and beards should be neatly trimmed.
- e. Employees should not wear an extreme amount of cologne, perfume, or aftershave to the extent that it triggers allergic reactions and creates health problems for co-workers.
- f. Offensive tattoos and body piercing (other than earrings) should not be visible and should be in keeping with a professional image.

Employees who do not regularly meet the public should follow basic requirements of safety and comfort, but should still be neat and businesslike.

- Depending on the nature of their job, employees who are required to meet special dress or uniform requirements must conform to the guidelines established within the specific department.
- At its discretion, the City may allow employees to dress more casually than is normally required. On these occasions, employees are still expected to present a neat appearance and are not permitted to wear ripped or disheveled clothing; sweatshirts, sweat or spandex pants; stirrups; halter-type, tank tops, or other revealing tops; bib overalls, beachwear, or similarly inappropriate clothing. We also ask that you not wear flip flops, beach sandals, or similarly inappropriate shoes.
- Any employee who does not meet the standards of this policy will be required to take corrective action, which may include leaving the premises.

## **Whistleblower Policy**

The City of Martinsville is committed to upholding high standards of honesty and integrity as business is conducted throughout this organization. Business is handled in a manner which is lawful and ethically responsible.

In order to maintain these standards, this policy formalizes the City's commitment to encourage its employees, citizens, or customers to disclose any improper or inappropriate governmental actions. This includes internal personnel who report such practices and those individuals external to the organization who make such reports that involve agents of the local government.

For citizens or customers who wish to file a formal complaint, or report any genuine concerns of inappropriate practices they will need to complete a statement, sign, date, and make those disclosures to the office of the City Manager. Any report made in good faith will be fully investigated by an impartial panel appointed by the City Manager. All facts will be considered promptly and fairly, and determined whether the disclosure is legitimate and made in honesty and good faith. A formal report and findings of the panel will be given to the City Manager. In the event that the investigation concludes the allegations warrant disciplinary action, appropriate measures will be taken in accordance with the provisions in state law and/or City policy. There will be no form of retaliation taken towards any citizen or customer for reporting inappropriate practices.

City employees are encouraged to bring any inappropriate practices or concerns to the attention of their immediate supervisor. The supervisor will communicate such actions to their respective department director, and finally to the City Manager. If the issues involve the employee's supervisor or department director the employee may direct their concerns to the attention of the City Manager. If the alleged improper or inappropriate action involves the City Manager, the matter should be reported to the City Attorney. Any report made in good faith that involves the City Manager will be fully investigated by an impartial panel appointed by the City Attorney. After the investigation is complete and the allegations warrant disciplinary action, appropriate measures will be taken.

No adverse personnel action will be taken against a City employee in retaliation for any lawful disclosure of information on a matter of public concern to a public body, which information the employee, in good faith, believes evidences: (1) a violation of any law, (2) mismanagement, (3) gross waste or misappropriation of public funds, (4) a substantial and specific danger to public health and safety or (5) an abuse of authority, collectively referred to as "alleged wrongful conduct". Alleged wrongful conduct does not include personnel actions involving employee grievances and related complaints. No supervisor, department/division manager or any other employee with authority to make or materially influence significant personnel decisions shall take or recommend any adverse personnel action against an employee in retaliation for disclosing alleged wrongful conduct to a public body. Any employee found to have violated this policy shall be disciplined up to and including termination. This policy applies only to employees acting in good faith.

## **IF YOU LEAVE THE CITY'S EMPLOYMENT**

### **Health Care**

Health insurance benefits cease on the last day of the month in which your employment ends. You may continue the same group coverage for yourself and your covered dependents for up to 18 months by paying the entire monthly cost plus a 2% administrative fee. Information about continuation of coverage (COBRA) will be mailed to you by the City's COBRA administrator.

### **Dental and Vision Benefits**

If you chose to participate in either of these benefits, you will be covered through the last day of the month in which your employment ends. You may continue the same group coverage for yourself and your covered dependents for up to 18 months by paying the entire monthly cost plus a 2% administrative fee. Information about continuation of coverage (COBRA) will be sent to you upon termination by the City's COBRA administrator.

### **Life Insurance**

Your basic group life insurance through Minnesota Life Insurance Company ends 31 days after the end of the month in which you leave your job. If you are enrolled in the Optional group life insurance, coverage also ends 31 days after the end of the month in which your employment ends. Basic and Optional life insurance may be converted to an individual policy. To convert coverage, you must complete a conversion of Group Life Insurance Enrollment form within the 31-day period to guarantee continued coverage.

Accidental Death and Dismemberment coverage ends on your last day of employment and may not be covered. Life insurance information is available from the Virginia Retirement System (VRS) web site at [www.varetire.org](http://www.varetire.org).

### **Retirement Contributions**

When you leave City employment, you have the option of leaving your accumulated VRS contributions or transferring your contributions into another retirement savings plan. If you leave retirement contributions in VRS, you defer retirement benefits and retain the service credit that was earned as an employee. This credit can be added to any service credit you may earn through future VRS-covered employment. With at least five years of VRS service, you may be eligible for a monthly benefit at age 55. You may be eligible to receive a reduced monthly benefit at age 50 with 10 or more years of service under VRS. If you are going to work for another VRS participating employer within 30 days, your VRS membership will transfer to your new employer. If you are currently disabled, you have 90 days from the date of your termination to apply for disability retirement from VRS. VRS provides information about each option at [www.varetire.org](http://www.varetire.org).

### **ICMA Deferred Compensation**

If you participated in the City's 457 Deferred Compensation benefit, you may withdraw money from your account, retain your account, or roll your account into an IRA, or other government plan. Contact an ICMA representative at (866) 266-7310 for additional information.

### **Annual (Vacation) Leave**

Your annual leave will be paid to you in the paycheck following the month in which your employment ends. Also, you may also “roll over” any vacation for which you will be paid into your ICMA account prior to your last payroll.

### **Cancer, Critical Illness, and Accident Insurance**

You should contact the AFLAC representative if you wish to continue cancer, critical illness, and accident insurance. Coverage ceases after the end of the month in which your employment ends.

### **Compensatory Leave – Non-Exempt Employees**

Non-exempt employees will be paid for all accumulated compensatory time in the payment following the month in which your employment ends.

### **Sick Leave**

You are not eligible for payment of accumulated sick leave unless you are eligible for either regular or disability VRS retirement benefits or retire at or after age 62 with at least five continuous years of service.

### **Health Savings Account**

The Health Savings Account is the employee’s personal account and they may continue using the account but will be responsible for all fees associated with the account after termination.

### **Credit Union**

You can remain a member of the Virginia Credit Union if you retire or change jobs. Contact the Credit Union for personal assistance at (800) 285-5051.

### **YMCA**

Employees should contact the “Y” for assistance regarding their YMCA membership.

### **W-2 Forms**

Your W-2 form reporting wages for the preceding year will be distributed by the Finance Office. Send any address changes to the Human Resources Office, PO Box 1112, Martinsville, VA 24114.

### **Exit Interview**

An exit interview will be conducted by the Human Resources Office prior to your last day of employment. Call (276) 403-5181 for more information or if you have questions.

### **Direct Deposit**

Unless you notify us otherwise, your last paycheck, including any payment for annual or compensatory leave, will be directly deposited into your checking or savings account.

**Important Telephone Numbers**

AFLAC – (800) 992-3522

Anthem Blue Cross and Blue Shield – (800) 582-6941

BOST Benefits – (877)283-7600

Delta Dental – (800) 572-3044

Health Savings Administrators – (888) 354-0697

Human Resources – 403-5181 or 403-5145

ICMA - (866) 266-7310

Minnesota Life – (800) 441-2258

United Healthcare – (800) 638-3120

Virginia Credit Union – (800) 285-5051

Virginia Retirement System – (888) 827-3847

YMCA – 632-6427

## Definitions

Throughout the Employee Manual, the following words and phrases shall have the meaning indicated:

- 1) Accident – An unplanned event in which damage or injury is sustained to equipment or employee(s).
- 2) Acting Status – The temporary placement of an employee in an authorized City position, generally for a period of no less than thirty days.
- 3) Administrative Leave – Leave with or without pay, granted by the City Manager for special situations or circumstances for non-disciplinary reasons.
- 4) Administrative Hearing – An oral proceeding where evidence and arguments are presented before a federal, state or local agency, authority, board, commission or any other body empowered by law to subpoena witnesses and render conclusions authorized by law.
- 5) Agency – (See department)
- 6) Allocation – The assignment of a newly created position to an approved classification.
- 7) Annual Performance Appraisal Date – The effective date on which an employee is evaluated for job performance as a City employee. All employees are evaluated annually but may be evaluated more frequently. The annual performance appraisal date is established by the City Manager and will be the same for all employees. The annual evaluation may be extended based on the supervisor's assessment of his performance and the department director's approval.
- 8) Appeal – A request for a hearing at the next applicable "step" under the grievance and appeal procedure set forth in these Rules.
- 9) Applicant – A person who indicates a specific interest in a current job vacancy or a type of work for which the City is actively recruiting and who files a formal application for employment with the City.
- 10) Appointing Authority – The City Manager is the appointing authority. He/she may delegate this authority to a department director for use in that department.
- 11) Appointment – The naming of a person to a position by an appointing authority consistent with City rules and regulations.
- 12) Authorized Absence – An absence approved by the employee's supervisor after proper notification is given to the supervisor of the reason for and estimated length of absence.
- 13) Authorized Position – A position listed in the budget as approved by the City Council and assigned a unique position number by the Human Resources Office.
- 14) Base Salary – The actual salary amount in a given pay range exclusive of all pay differentials and allowances.
- 15) Benefits – A part of compensation made available to certain eligible employees.
- 16) Caregiver Leave (FMLA) – Permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period.
- 17) City – The City of Martinsville, Virginia.
- 18) City Service – Employment with the City.
- 19) Class Specification (See Specification)
- 20) Classification – The official title of a group of jobs or positions sufficiently similar in duties performed, degree of supervision exercised or required, minimum requirements of education, experience or skill, and other characteristics which have been assigned to a specific Pay Grade in the City's Classification Plan.
- 21) Class Specification – A formal written statement which includes the general duties, scope of responsibilities, and other qualifications distinguishing one classification from another.
- 22) Classification and Pay Plan – The official titles of all positions and the salary grades and salary ranges assigned to them which have been approved by the City Manager. The Plan provides for the allocation of positions into classifications and establishes how employees will be paid.

- 23) Closing Date – The last date established for which applications can be received for a particular position.
- 24) Compensation – Payment made for services which may include pay and/or benefits as recommended by the Department Director and approved by the Human Resources Manager and/or City Manager.
- 25) Complaint – A concern or problem regarding working conditions or a decision made by the City that affects an employee’s job that is not covered in the formal Grievance Procedure.
- 26) Counseling – A verbal statement, which may be followed in written form, made to an employee intended to improve job performance or job related behavior. Counseling is not grievable.
- 27) Demotion – The placement of an employee in a position in a lower class for which a lower maximum rate of pay is authorized. A demotion may be disciplinary or non-disciplinary and may carry with it a reduction in pay. (See Economic Demotion, Disciplinary Demotion, or Voluntary Demotion)
- 28) Department – An administrative unit of the City under the control and supervision of the City Manager.
- 29) Department Director – An individual responsible for the management and leadership of a department.
- 30) Directives – Any written policies, procedures, or orders issued under the authority of a particular Appointing Authority which dictates certain expectations, actions, rules or regulations. All agency policies, procedures and orders shall be consistent with these rules.
- 31) Disability – A physical or mental impairment that substantially limits one or more major life activities, the employee has a record of such impairment, or is regarded as having substantial impairment.
- 32) Discipline – Action taken against an employee ranging from written reprimand to dismissal depending on the severity of the employee’s misconduct.
- 33) Disciplinary Demotion – The placement of an employee in a position of lower class as a result of the employee’s inability to meet job requirements or to perform the assigned tasks of the position. Disciplinary demotions can also result when an employee has violated officially established rules or regulations.
- 34) Dismissal – The involuntary separation of employment with the City.
- 35) Economic Demotion – The placement of an employee in a position of lower class because of a lack of work or funds but which provides continued employment.
- 36) Effective Date – The date of an administrative transaction that affects an employee's position, salary or status.
- 37) Eligible Employee – A person who meets specific requirements that allows the employee to earn certain benefits.
- 38) Emergency – Any occasion when unforeseen circumstances or conditions beyond the reasonable control of departments or agencies require employees to work outside their regular work schedules to protect and preserve the interest of the City or its citizens.
- 39) Employment – Placement of an individual into a vacant position as approved by the department director and/or City Manager.
- 40) Employment Date – The date a new employee reports to work with the City.
- 41) Employee – A person occupying a position who is paid a salary or wage to perform services for the benefit and under the control of the City of Martinsville.
- 42) Equal Employment Opportunity – A statement of action whereby the City of Martinsville will promote and maintain a policy of nondiscrimination in recruitment, selection, hiring, pay, promotion, or any other personnel action affecting its employees.
- 43) Evaluation Date – (See Annual Performance Appraisal date)
- 44) Examination – The process of evaluating either internal or external applicants by the use of measurements which indicate their knowledge, skills, abilities and general suitability for the class for which they are being evaluated for employment, transfer, promotion or demotion.
- 45) Exempt Employee – An employee, as designated by the Human Resources Manager, as exempt from overtime pay or compensatory time according to the Fair Labor Standards Act (FLSA).

- 46) Flex Time – Any deviation from the standard work schedule with the prior approval of the Department Director.
- 47) Full-Time Employment – Employment which averages forty hours per week for at least nine months in any twelve month period.
- 48) FMLA – Family Medical Leave Act of 1993, as amended, which provides eligible employees with up to 12 weeks or 480 hours of job-protected leave per year in a twelve-month period for specified family and medical reasons. Immediate family members, for purposes of FMLA, are limited to child, parent, or spouse.
- 49) Grievance – A complaint or dispute by an employee relating to his employment, generally resulting from a written reprimand, disciplinary action, or improper conduct which could result in a suspension, demotion, or termination, including but not necessarily limited to the situations outlined under the city's Grievance Policy.
- 50) Hourly Employee – A part-time employee hired for an extended period, not covered by any benefits and having no right to continued employment or expectation of coverage of benefits or change in compensation.
- 51) Injury Leave – Absence from work because of an employee's incapacity to work as a result of an injury or illness that occurred during the course of an employee's job performance.
- 52) Job Description – Contains specific functions, duties, and responsibilities that are unique to an individual position. Because positions may evolve over time, department directors and supervisors are encouraged to periodically review the duties assigned to ensure that the job title accurately reflects the nature and scope of the work being performed. The description does not constitute an employment agreement between the City and the employee and is subject to change by the City without notice or as the needs of the City and/or the requirements of the job change.
- 53) Leave Accrual Date – The date that determines when the rate of annual or sick leave changes.
- 54) Leave of Absence – An authorized absence from duty, as approved by the department director.
- 55) Non-exempt classification – An employee, as designated by the Human Resources Manager as eligible for overtime pay or compensatory time according to the Fair Labor Standards Act.
- 56) Nepotism – Favoritism shown to a relative, as in offering a job, on the basis of the relationship.
- 57) Normal Work Schedule – Those hours of each workday and those days of the week during which an employee is regularly assigned to work.
- 58) Outside Employment – Any employment, activity or enterprise which is outside the normal scope of duties for which an individual is employed by the City; and in which the nature of the work, activity or enterprise engaged in produces a wage, salary, bonus or net gain.
- 59) Part-Time Employment – Persons employed to regularly work less than 40 hours per week.
- 60) Pay – Any salary or wage paid to an employee by the City for services rendered.
- 61) Pay Grade – A number assigned to a group of classifications which represents a range of pay for positions under the jurisdiction of the City Manager according to labor market conditions and City organizational structure, which has been approved by the City Manager.
- 62) Pay Bonus – A one-time specific payment amount.
- 63) Pay for Performance – An increase in salary based on an employee's performance in accordance with the City's Compensation Program.
- 64) Pay Period – The frequency or defined time frame for which an employee will be paid or receive a pay check. City employees are paid monthly unless approved by the City Manager. The monthly pay is determined by dividing the annual salary by twelve. Unless overtime or other additional compensation is due, the pay will remain the same regardless of the number of days or hours worked during the month.
- 65) Pay Range – A range of pay associated with a pay grade which has a minimum and maximum rate of pay and is assigned to a specific classification in the Pay Plan.
- 66) Pay Status – An employee's active or inactive status on the City's payroll.
- 67) Performance Rating – The objective rating of the work performance of an employee.
- 68) Permanent Position – A position established in accordance with the annual budget for a continuous, indefinite period of time.

- 69) Personnel Record – The official central file for information pertaining to each employee maintained in and safeguarded by the Human Resources Office.
- 70) Policy – General guidelines that regulate organizational actions.
- 71) Position – The specific duties of employment requiring the services of one full or part-time employee.
- 72) Position Number – A unique, constant number assigned by the Human Resources Office to each position authorized by the City Council.
- 73) Pre-Disciplinary Conference – An informal meeting granted to an employee in which an explanation is given for the recommendations of discipline and the employee is allowed to informally present his perspective.
- 74) Probationary Period – A trial period of no greater than twelve months served as part of the initial selection process by all new employees before attaining regular status. During the probationary period, either the employer or employee may terminate employment with the City for any reason.
- 75) Procedures – Customary methods of handling policies.
- 76) Promotion – The reassignment of an employee from a position to other that has substantially higher duties and responsibilities and a higher salary grade.
- 77) Qualifications – The requirements of education, experience and other skills established for a given class.
- 78) Reallocation – A change to the salary range of a job classification, either higher or lower, based on labor market conditions or organizational structure and is the result of a formal study of comparable positions in surrounding private and public sector organizations. Reallocations impact all employees who are in the job classification. The determination to reallocate a classification is made upon the recommendation of the Human Resources Manager and approved by the City Manager.
- 79) Reasonable Accommodations – Accommodations required pursuant to State and Federal Law.
- 80) Reassignments – (See transfer).
- 81) Reclassification – The reassignment of an existing position from one classification to another based on job content such as duty, kind of work, level of difficulty, required skill and education, and accountability for work being performed. Reclassifications impact individual positions only.
- 82) Reduction-in-Force – The involuntary separation of an employee from a position for reasons not related to fault, delinquency, misconduct or disability on the part of the employee.
- 83) Regular Rate of Pay – The hourly rate of pay which is the basis for all overtime pay. The regular hourly rate of pay of a non-exempt employee is determined by dividing total remuneration for employment in any workweek by the total number of hours actually work in that workweek for which the compensation is to be paid.
- 84) Regulations – A policy or order issued by an executive authority or regulatory agency.
- 85) Resignation – The voluntary separation from City service by an employee.
- 86) Reinstatement – The re-appointment of an eligible employee who left the City in good standing or the acceptance of a request to withdraw the resignation of an employee wishing to return to work within the prescribed period of time.
- 87) Reprimand – A written disciplinary statement made to an employee concerning job performance or job related behavior.
- 88) Retirement – An action or status of an employee who is eligible for, applies for, and is approved by VRS for retirement benefits, and who leaves City employment for that reason.
- 89) Rule – Specific guidelines that regulate and restrict behavior of employees.
- 90) Salary Range – (See Pay Range).
- 91) Seasonal – A type of temporary position established for special or recurring work assignments.
- 92) Secondary Employment – Employment in any capacity (within or outside of the City service) other than the employee's primary job with the City.
- 93) Seniority – The total time an employee has been employed in the City Service.
- 94) Separation – The termination of employment from the City for any reason.

- 95) Separation Date – The last day that the employee was physically on the job. When the separation date immediately precedes a holiday, the employee shall not be paid for the holiday since he or she is no longer an employee.
- 96) Series – Two or more classes that are similar as to type of work but differ as to level of responsibility and difficulty. Classes are arranged in a series of steps in a normal line of promotion. A single class shall be deemed a series if there is no other class having similar specifications.
- 99) Service Date – The date from which service time is calculated for purposes of services awards.
- 100) Service member – A current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness sustained in the line of duty that may make the service member medically unfit to perform his or her duties.
- 101) Specification – A description of work that identifies the essential functions of the classification, not the individual that fills the position. The specification contains statements regarding duties and responsibilities, knowledge, skills, and abilities, education and experience needed, physical demands and other credential or special qualifications. The specification is not intended to describe, and does not necessarily list, all the essential job functions for a given position within a classification.
- 102) Suspension without pay – The temporary removal of an employee from duty and pay status for cause. All suspensions are without pay and are for a specific period of time.
- 103) Temporary Position – A position established for a specific period of time and falling into the category of either seasonal or emergency.
- 104) Termination – (See separation).
- 105) Transfer – A change from one position to another having the same or substantially similar duties and pay grade.
- 106) Vacancy – An established position which is not filled.
- 107) Vested – A full-time employee who has attained at least five (5) years of creditable VRS service.
- 108) Voluntary Demotion – The placement of an employee in a position in a lower class for which a lower maximum rate of pay is authorized. A voluntary demotion may occur if an employee requests and is granted reassignment to an available position in a lower salary grade.
- 109) Workday – A regularly scheduled number of hours per day that an employee is expected to work.
- 110) Workplace – Any site where an employee performs work, including but not limited to any City building, City-owned vehicle, or any building used by the City for City business, approved activity, event, or function.
- 111) Workweek – A regularly scheduled 40-hour week, normally Sunday through Saturday, unless otherwise specified by the department director or City Manager, which generally consists of five 8-hour days. Uniformed Police, Fire & EMS personnel are subject to alternate work schedule.

## **EQUAL EMPLOYMENT OPPORTUNITY STATEMENT**

The City of Martinsville shall provide equal employment opportunity to employees and applicants for employment on the basis of merit and qualifications without regard to race, color, religion, national origin, gender, age (except where gender or age is a bona fide occupational qualification), political affiliation, or otherwise qualified persons with disabilities. This policy shall be followed in recruiting and hiring practices, testing, compensation and pay practices, benefits, promotions, transfers, layoff/return from layoff, performance management, training, apprenticeship, demotions, corrective action, terminations, and all other terms, conditions, or privileges of employment. Any person employed by the City who fails to comply with this policy is subject to disciplinary action. This Equal Employment Opportunity Statement applies to those employees under the jurisdiction of the City Manager, and is included in the City of Martinsville Employee Manual, which is given to all employees.

This policy is intended to discourage unfair practices such as:

1. Discrimination in favor of any employees or applicants for employment on the basis of race, color, religion, national origin, gender, age, political affiliation, or disability to the detriment of employment opportunities of any other qualified employee or applicant; or
2. Lowering of job requirements or performance standards for the purpose of favoring any employee or applicant on the basis of his or her race, color, religion, national origin, gender, age, disability, or political affiliation.

In response to requirements established by the Federal Government in order to receive Revenue Sharing funds and grants from such agencies as the Department of Criminal Justice Services and Housing and Urban Development, the following statement is incorporated into this policy:

“No person shall, on the grounds of race, color, religion, national origin, gender, age, disability, or political affiliation, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any City program or activity funded in whole or in part by Federal financial assistance.”

### ASSIGNMENT OF RESPONSIBILITY

The ultimate responsibility for Equal Employment Opportunity Compliance rests with the City Council and City Manager. Responsibility for insuring that this policy is carried out on the departmental level is delegated to each director.

With regard to this policy, the responsibilities of the City Manager/Human Resources Office include:

1. Investigating and working to resolve complaints of unlawful discrimination and unfair treatment by employees or applicants for employment through the use of interviewing, counseling and other techniques outlined in the grievance procedure.
2. Conducting/coordinating training on equal employment laws.

3. Preparing the Equal Employment Opportunity-4 report concerning the composition of the City's workforce by race and gender.
4. Maintaining records and/or reports of personnel actions, such as applicant and hiring statistics.
5. Conducting exit interviews and other techniques to minimize employee turnover and determine if there are any problems that can be resolved through administrative channels.

### GRIEVANCES

When employees and supervisors have problems, they will be assisted through corrective action and/or informal counseling. If and when such counseling fails, any employee who believes that he/she has received unfair treatment has the right to file a grievance under the City's grievance procedure. The filing of such a complaint will in no way adversely affect the employee's treatment on the job. To provide for the prompt and equitable hearing of employee grievances concerning work-related matters, as well as discriminatory matters, the City has outlined formal grievance procedure guidelines in Chapter IX of the Employee Manual.

The Code of Virginia specifically excludes the employees and deputies of constitutional officers from coverage by this grievance procedure.

### HUMAN RESOURCES PRACTICES

Applicants will be informed of all current employment opportunities with the City. Applications are kept on active file for six months and are retained for an additional six months in order to ensure equal treatment of all applicants.

Except for positions that are filled through internal promotion, all job openings will be listed with the Virginia Employment Commission, placed in the local newspaper, the City's website, and cable channel so that the community might be aware of employment opportunities. The statement "An Equal Opportunity Employer" will be included in all advertisements relating to employment. Employees will be notified of promotional opportunities through the posting of vacancy listings. When necessary, special recruitment resources will be utilized.

Hiring qualifications for both entry and experience level positions will be based on job requirements. Position and qualification standards are subject to continual review to ensure that job requirements are job-related. Required examinations shall be job-related and measure the abilities, aptitudes, informational backgrounds, and skills actually required for the job.

Existing City and community training programs shall be utilized to the greatest degree possible to provide employment of applicants and promotional opportunities for employees. Employees will be informed about training opportunities that are related to the job.

The City will ensure that equal pay will be provided for equal work regardless of race, color, religion, national origin, gender, age, disability, or political affiliation.

REV 7/2006