CITY OF BREVARD

PERSONNEL POLICY

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CITY OF BREVARD

PERSONNEL POLICY

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

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ARTICLE I. GENERAL PROVISIONS

SECTION 1. PURPOSE OF THE POLICY

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

The City retains the right, in its sole discretion and at any time, to change, modify, suspend, interpret differently, or cancel, in whole or in part, any of the policies or procedures herein even though not previously communicated to employees or reprinted, provided that notice of any such change to the published personnel policies or procedures is posted in a place accessible to the employees prior to the effective date thereof.

SECTION 2. AT WILL EMPLOYMENT

The City of Brevard is an "at will" employer. Nothing in this policy creates an employment contract or a guarantee of employment for any period of time or term between the City and its employees. No person has the authority to grant any employee any contractual rights of employment. The provision of the benefits described in this Personnel Policy are subject to availability of funds and the approval of the City Council in the City's annual budget. The provisions of this Personnel Policy may be changed at any time, with or without notice to the Employees, at the discretion of the City Council.

SECTION 3. MERIT PRINCIPLE

All appointments and promotions shall be made solely on the basis of merit. All positions requiring the performance of the same duties and fulfillment of the same responsibilities shall be assigned to the same class and the same salary range. No applicant for employment or employee shall be deprived of employment opportunities or otherwise adversely affected as an employee because of that such individual's race, color, religion, sex, national origin, political affiliation, non-disqualifying disability, or age.

SECTION 4. RESPONSIBILITIES OF THE CITY COUNCIL

The City Council shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and may change the policies and benefits at their discretion, with or without prior notice to Employees. They also shall make and confirm appointments when so specified by the general statutes.

SECTION 5. RESPONSIBILITIES OF THE CITY MANAGER

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

The City Manager shall supervise or participate in:

a) recommending rules and revisions to the personnel system to the City Council for consideration;

b) making changes as necessary to maintain an up to date and accurate position classification plan;

c) preparing and recommending necessary revisions to the pay plan;

d) determining which employees shall be subject to the overtime provisions of FLSA;

e) establishing and maintaining a roster of all persons and authorized positions in the municipal service, setting forth each position and employee, class title of position, salary, any changes in class title and status, and such data as may be desirable or useful;

f) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;

g) performing such other duties as may be assigned by the City Council not inconsistent with this Policy; and

h) appointing an employee to the role of Human Resources Director.

The City Manager must authorize any action that has the effect of changing the status of any city employee as outlined by this policy.

SECTION 6. RESPONSIBILITIES OF THE HUMAN RESOURCES DIRECTOR

The responsibilities of the Human Resources Director are to make recommendations to the City Manager on the following*:*

a) recommending rules and revisions to the personnel system to the City Manager for consideration;

b) recommending changes as necessary to maintain an up to date and accurate position classification plan;

c) recommending necessary revisions to the pay plan;

d) recommending which employees shall be subject to the overtime provisions of FLSA;

e) maintaining a roster of all persons in the municipal service;

f) establishing and maintaining a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;

g) developing and administering such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;

h) developing and coordinating training and educational programs for City employees;

i) periodically investigating the operation and effect of the personnel provisions of this Policy;

j) assist the City Manager and Department Heads by ensuring adherence to this policy; and

k) performing such other duties as may be assigned by the City Manager consistent with this Policy.

SECTION 7. APPLICATION OF POLICIES, PLAN, RULES, AND REGULATIONS

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

SECTION 8. DEPARTMENTAL RULES AND REGULATIONS

Because of the particular personnel and operational requirements of the various departments of the City, each department is authorized to establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the City Manager and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy. In the event of any conflict or perceived conflict, the provisions of this Policy shall control. A copy of any such Departmental Rules and Regulations must be provided to the Human Resources Director to be filed.

SECTION 9. DEFINITIONS

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

Full-time employee. An employee who is in a position for which an average work week equals at least at least 30 hours per week and continuous employment of at least 12 months, are required by the City.

Grievance. A claim or complaint by an employee based on an event, term, or condition which adversely affects the circumstances under which an employee works, allegedly caused by the misinterpretation, unfair application, or lack of an established policy pertaining to employment conditions.

Part-time employee. An employee who is in a position for which an average work week of at least 20 hours and less than 30 hours and continuous employment of at least 12 months are required by the City.

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

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

Temporary employee. An employee appointed to a position for which either the average work week required by the City over the course of a year is less than 20 hours, or continuous employment required by the City is less than 12 months.

Trainee employee. An employee status when an applicant is hired (or employee promoted) who does not meet all of the requirements for the position. During the duration of a trainee appointment, the employee is on probationary status.

ARTICLE II. POSITION CLASSIFICATION PLAN

SECTION 1. PURPOSE.

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

SECTION 2. COMPOSITION OF THE POSITION CLASSIFICATION PLAN

The classification plan shall consist of:

a) a grouping of positions in classes which are approximately equal in difficulty and responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;

b) class titles descriptive of the work of the class;

c) written specifications for each class of positions; and

d) an allocation list showing the class title of each position in the classified service.

SECTION 3. USE OF THE POSITION CLASSIFICATION PLAN

The classification plan is to be used:

a) as a guide in recruiting and examining applicants for employment;

b) in determining lines of promotion and in developing employee training programs;

c) in determining salary to be paid for various types of work;

d) in determining personnel service items in departmental budgets; and

e) in providing uniform job terminology.

SECTION 4. ADMINISTRATION OF THE POSITION CLASSIFICATION PLAN

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

- Department heads shall be responsible for bringing it to the attention of the Human Resources Director when there have been substantial and/or material changes in the nature of duties, responsibilities, or working conditions that affect the classification of a position. When the Human Resources Director finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position, the Human Resources Director shall make a

recommendation to the City Manager for one of the following; Direct that the existing class specification be revised.

- Reallocate the position to the appropriate class within the existing classification plan, or
- Amend the classification plan to establish a new class to which the position may be allocated.

SECTION 5. AMENDMENT OF THE CLASSIFICATION PLAN

Classes of positions shall be added to, modified within, and deleted from the classification plan by the City Manager, but shall be approved by the City Council as part of the annual review and approval of the budget.

SECTION 6. AUTHORIZATION OF NEW POSITIONS

New regular positions shall be established upon recommendation of the City Manager and approval of the City Council. New positions shall be recommended to the City Council with a recommended class title after which the City Manager shall either allocate the new position into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be allocated. The City manager may authorize the hiring of temporary staff during the budget year to meet workforce demands, and if there is a need for ongoing employment in a regular position, Council should review the request for a regular position at a regularly scheduled meeting and/or during the annual budget process.

ARTICLE III. THE PAY PLAN

SECTION 1. DEFINITION

The pay plan includes the basic salary schedule and the *Assignment of Classes to Grades* adopted by the City Council. The salary schedule consists of minimum or beginning, midpoint, and maximum rates of pay for all classes of positions, and a designation of the standard hours in the work week for each position.

SECTION 2. ADMINISTRATION AND MAINTENANCE

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

The pay plan is intended to provide equitable compensation for all positions with consideration to differences in the duties and responsibilities, comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the City, and other factors. To this end, each budget year the Human Resources Director shall make comparative studies of all factors affecting the level of salary ranges including the consumer price index, anticipated changes in surrounding employer plans, and other relevant factors, and may recommend to the City Manager such

changes in salary ranges as appear to be pertinent. Periodically, the City Manager shall recommend that individual salary ranges be studied and adjusted as necessary to maintain market competitiveness. Such adjustments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class subject to the approval of the City Council.

SECTION 3. STARTING SALARIES

All persons employed in positions approved in the position classification plan shall be compensated at a rate within the approved pay range for the position classification. When a Department Director wishes to hire someone greater than five percent above the grade minimum, they must get the approval of the Human Resources Director and the City Manager.

SECTION 4. TRAINEE DESIGNATION AND PROVISIONS

Applicants being considered for employment or City employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the City Manager to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the Department Head. "Trainee" salaries shall be at least 5% below the minimum salary rate established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as being in a probationary period. However, probationary periods shall be no less than six months and trainee periods may extend from three to eighteen months. A trainee shall remain a probationary employee until the trainee period is satisfactorily completed.

If the training is not successfully completed to the satisfaction of the City Manager, the trainee shall be transferred, demoted, or dismissed. If the trainee successfully meets the required qualifications and completes the probationary period, the employee shall be moved to the minimum of the pay grade for which the employee is assigned. Trainees expected to have a probationary period beyond 6 months may have negotiated pay increases during the trainee period as long as the pay rate remains below the minimum for the assigned pay grade.

SECTION 5. PROBATIONARY PAY INCREASES

Employees hired at or promoted into the minimum rate of the pay range may receive a salary increase within the pay range of approximately 5% upon successful completion of the probationary period. Employees serving a twelve-month probationary period may be considered for this increase after six months of employment if recommended by the Department Director and approved by the City Manager.

Employees hired at or promoted to a rate equal to or above the minimum for the pay range are not automatically eligible for a pay increase upon completion of probation. Employees may be eligible if so determined at the time of hiring and/or promotion and with the approval of the Human Resources Director and City Manager.

SECTION 6. PERFORMANCE PAY

Upward movement within the established salary range for an employee is not automatic. Procedures for determining performance levels and performance pay increases or other performance-related movement within the range shall be established in procedures approved by the City Manager.

Each fiscal year, the City Manager shall issue an administrative memorandum, based on approval of the budget, giving guidance to the Department Heads on the availability of funds for performance pay increases or performance pay bonuses and in what percentage amounts may be allotted.

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

SECTION 7. SALARY EFFECT OF PROMOTIONS, DEMOTIONS, TRANSFERS, AND RECLASSIFICATIONS

All promotions, demotions, transfers and reclassifications must be submitted to the Human Resources Director to make recommendations to the City Manager. The City Manager will make the final decision on all requests.

Promotions. The purpose of the promotional pay increase is to recognize and compensate the employee for taking on increased responsibility. When an employee is promoted, the employee's salary shall normally be advanced to the minimum rate of the new position, or to a salary which provides an increase of approximately 5% per pay grade increase with a maximum of 15% increase whichever is greater. In the event of highly skilled and qualified employees, shortage of qualified applicants, or other reasons related to the merit principle of employment, the City Manager may set the salary at an appropriate rate in the range of the position to which the employee is promoted that best reflects the employee's qualifications for the job and relative worth to the City, taking into account the range of the position and the relative qualifications of other employees in the same classification. In no event, however, shall the new salary exceed the maximum rate of the new salary range. In setting the promotion salary, the City shall consider internal comparisons with other employees in the same or similar jobs.

Demotions. When an employee is demoted to a position for which they are qualified, the salary shall be set at the rate in the lower pay range which provides a salary commensurate with the employees' qualifications to perform the job and consistent with the placement of other employees within the same classification in that salary range when the demotion is not the result of discipline. If the current salary is within the new range, the employee's salary may be retained at the previous rate if appropriate. If the demotion is the result of discipline, the salary shall be decreased at least 5%. Salaries of demoted employees may be no greater than the maximum of the new range. In setting the salary, the City shall consider internal comparisons with other employees in the same or similar jobs.

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

Reclassifications. An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of approximately 5% per pay grade (with a 15% increase maximum) or an increase to the minimum rate of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least five percent above the minimum of the minimum rate in the new range.

If the position is reclassified to a lower pay range, the employee's salary shall remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

SECTION 8. SALARY EFFECT OF SALARY RANGE REVISIONS

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least approximately 5% per increase in range, or to the minimum rate of the new range, whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to 5% above the minimum in the new range. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum step established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

SECTION 9. TRANSITION TO A NEW SALARY PLAN

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

a) No employee shall receive a salary reduction as a result of the transition to a new salary plan.

b) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised at least to the new minimum rate for their classes. For employees who have completed probation, the employee's salary shall be advanced to five (5) percent above the minimum for the new salary rate in the new plan.

c) All employees being paid at a rate below the maximum rate established for their respective classes shall maintain their current rate of pay unless the transition includes pay adjustments approved by City Council.

d) All employees being paid at a rate above the maximum rate established for their respective classes shall have their salaries maintained at that salary level with no increases until such time as the employees' salary range is increased above the employees' current salary.

SECTION 10. EFFECTIVE DATE OF SALARY CHANGES

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period. Performance Pay increases or bonuses will become effective the first

day of the first full pay period of the new fiscal year, or at such specific date as may be provided by procedures approved by the City Manager.

SECTION 11. PAYROLL AND TIMESHEETS

The pay week for all City departments will begin Monday and end Sunday night. However, exceptions may be made by the City Manager based on the needs of each department. Documentation shall be maintained by Human Resources and shall be reviewed annually by Human Resources as part of the budget process. Payroll is processed on a bi-weekly schedule and time cards are to be turned in following the weeks worked with signatures from both the employee and Department Head for the accurate time worked and/or any sick, vacation or holiday pay which has been approved.

If an employee willfully records time that was not worked in order to be paid these actions will be grounds for disciplinary action as outlined in Article IX.

Except for extenuating circumstances, any employee's failure or refusal to submit a signed time card will result in an employee's time not being processed for that pay week. Time worked will be paid upon completion of and the signing of the time card. Such actions may be grounds for disciplinary actions as outlined in Article IX.

Payroll will be run once a month for the City Council and the Mayor. Other council appointed boards that are eligible for meeting stipends, as designated by the City Council, will be paid semiannually during the year.

SECTION 12. OVERTIME PAY PROVISIONS

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

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

Non-exempt employees will be paid at a straight time rate for hours worked up to the FLSA established limit for their position (40 hours in a 7-day period; 86 hours for police, in a 14 day period, and 212 hours for Fire personnel in a 28 day period). Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate.

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

Whenever practicable, departments will schedule time off on an hour-for-hour basis within the applicable work period for non-exempt employees, instead of paying overtime or compensatory time.

When time off within the work period cannot be granted, overtime worked will be paid or compensatory time will be accrued at 1 ½ times the regular rate of pay, in accordance with the FLSA.

Employees that accrue compensatory time shall be required to use compensatory time prior to using vacation leave. Compensatory time balances may not exceed a maximum of 80 hours without City Manager approval. Any employee who has a comp time balance exceeding 80 hours, will be required to work with their department to schedule time off to reduce the compensatory time balance to below 80 hours.

Department Heads will carefully review each employee's comp time earned, comp time paid and/or comp time "banked" request with each payroll. Departments will receive bi-weekly leave reports showing the amount of hours earned and banked for each employee's comp time.

All employees comp time must be recorded on timesheets for recordkeeping in the payroll system. Comp time reflected in the payroll system supersedes any comp time records established or maintained by departments or individuals.

Employees in positions determined to be classified as "exempt" by the FLSA (as Executive, Administrative, or Professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees, due to the nature of their work and pay classification, will not receive compensation time for these hours. Exempt employees will be granted one week of exempt flex time at the beginning of each calendar year. Flex-time must be used prior to any vacation time. Flex time cannot be converted to regular vacation and/or sick time and will not be paid out at the time of separation. Flex time cannot be carried over from one calendar year to the next. Any time not used by December 31st of each year will be lost. An exempt employee hired after the first of the calendar year will be granted a prorated amount of flex time.

State of Emergency. When the Governor declares a State of emergency, overtime will be paid or compensatory time will be granted at straight-time to FLSA exempt employees when the following conditions occur:

a) A gubernatorial declaration of state of emergency,

b) Requirement by management for employees to work overtime for purposes of response and/or recovery during the emergency, and

c) Funds are available. The City Manager shall determine if funds are available to cover the overtime payments. The City shall distribute any overtime pay consistently with a pre-defined standard that treats all employees equitably.

SECTION 13. ON-CALL PAY

The City provides a continuous twenty-four hour a day, seven day a week service to its citizens. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any

hour of the day or night. One of the conditions of employment with the City is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position.

Each applicable department has an established rotation where different employees share responsibility for being ready to return to work for a specified period of time when called. On-call status in a department must be regularly shared by more than one employee on a rotating basis. The employee must be in touch by pager, radio, or telephone numbers left available at all times of assignment, wherever he or she goes. On-call status means being fit and able to report to work within an acceptably short period of time, as designated by the department.

Departments may also establish procedures where employees may request in advance to have a substitute cover for him/her for a designated portion of the on-call time for reasons acceptable to and approved by the supervisor. The hours which were covered by the substitute would be deducted from the total on-call hours of the primary employee, and would be paid to the substitute.

If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal by the City Manager.

SECTION 14. ON-CALL COMPENSATION AND CALL-BACK PAY.

When designated on-call employees are not performing work duties, the City will provide compensation in appreciation for the commitment of being on-call. Compensation will be paid to non-exempt employees at the rate of $2.00two dollars) per hour of on-call time.

When a non-exempt employee is actually called back to work or a worksite because of special needs or emergencies, non-exempt employees will be paid for a minimum of two hours of work, even if their actual work time was shorter. "Call-back" provisions do not apply to previously scheduled overtime work (scheduled one or more days in advance).

SECTION 15. PAYROLL DEDUCTION

Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made upon the request of the employee on determination by the City Manager as to capability of payroll equipment, associated increase in workload and appropriateness of the deduction.

It is the City's policy to comply with the provisions of the FLSA with regard to deductions from exempt employees' salaries. Accordingly, improper deductions from exempt employees' salaries are specifically prohibited. If an employee believes that an improper deduction has been made, immediately contact your supervisor and the Human Resources Director. Any exempt employee who believes that an improper deduction has been made from their salary may also file a grievance in accordance with the provisions of Article X.

Reports of improper deductions will be promptly investigated. If it is determined that an improper deduction has occurred, reimbursement for that deduction will be provided.

SECTION 16. LONGEVITY PAY

Full-time employees of the City may be compensated for years of continuous service by payment of a longevity supplement based on the following table. Annual longevity amounts are based on years of service and amount listed as outlined below. The date of eligibility will be set as of January 1st of each year. Payments shall be made the week of Thanksgiving.

Employees hired **after** July 1, 2014 will use the following guidelines:

Years of Service	Longevity Amount
5 -9	$500.00
10-14	$750.00
15-20	$1000.00
21 yrs. and over	$1250.00

Maximum longevity payment shall have a ceiling of $1,250.00.

Employees hired **before** July 1, 2014 will maintain a grandfathered status and will use the following guidelines:

Years of Service	Longevity Amount
0-4	$150.00
5 -9	$500.00
10-14	$750.00
15-20	$1000.00
21 yrs. and over	$1250.00

Maximum longevity payment shall have a ceiling of $1,250.00.

Longevity pay is not guaranteed, but rather is subject to the approval of the City Council and may or may not be approved each fiscal year depending upon the financial conditions of the City and other factors. Longevity pay would not be considered a part of the annual base pay. Appropriate federal state, retirement, etc. deductions will be made.

Former employees returning to the City of Brevard for employment will be subject to the new Longevity Pay schedule and will not receive credit for prior service.

The Human Resources Department will maintain records of those employees who qualify as grandfathered and those who will follow the new Longevity Pay schedule.

An employee must be in active status through November 30th in order to be eligible for payment. Any eligible employee in a leave without pay status will not receive payment until they have returned to work and in an active pay status.

SECTION 17. BONUS FOR TEMPORARY PERSONNEL AND PART-TIME FIRE PERSONNEL

In lieu longevity, Temporary Personnel and Part-time Fire Personnel are eligible for a $75 bonus if they meet the following eligibility requirements:

1. Employed prior to January 1 of the year of the bonus.
2. Worked over 200 hours during the current year and are still active on the department's roster.

Payments shall be made the week of Thanksgiving.

These bonuses are not guaranteed, but rather are subject to the approval of the City Council and may or may not be paid as approved for each fiscal year depending on the financial conditions and other factors. These Bonuses are not to be considered a part of annual base pay. Appropriate federal and state, retirement etc. deductions will be made.

An employee must be in active status through November 30th in order to be eligible for payment. Any eligible employee in a leave without pay status will not receive payment until they have returned to work and in an active pay status.

SECTION 18. PAY FOR ACTING IN A HIGHER LEVEL CLASSIFICATION

An employee who is formally designated to perform the duties of a job that is assigned to a higher salary grade than that of the employee's regular classification may receive an increase for the duration of the "Acting" assignment. The employee may receive a salary adjustment to the minimum level of the job in which the employee is acting or an increase of 5% increase per grade (with a 15% maximum increase), whichever is greater. Any such salary increase shall be temporary and upon completion of the assignment, the employee shall go back to the salary he or she would have had if not assigned in the "Acting" role, taking into account any increases the employee would have received if they had not been placed in the "Acting" role.

If a cost of living adjustment (COLA) increase is given during this time then the increase will be based on the original position. In the event a performance increase is given it will be based on the original position.

Department Heads who work in a capacity other than their department, along with assigned duties, for a temporary time frame will receive a minimum increase of 5% at the discretion of the City Manager.

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

SECTION 1. EQUAL EMPLOYMENT OPPORTUNITY POLICY

It is the policy of the City to foster, maintain and promote equal employment opportunity. The City shall select employees on the basis of the applicant's qualifications for the job and award them with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), political affiliation, marital status, disability or genetic information. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of duties with or without reasonable accommodation.

SECTION 2. IMPLEMENTATION OF EQUAL EMPLOYMENT OPPORTUNITY POLICY

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age (40 or older), political affiliation, marital status, disability or genetic information. Notices with regard to equal employment matters shall be posted in conspicuous places on City premises in places where notices are customarily posted.

SECTION 3. RECRUITMENT, SELECTION AND APPOINTMENT.

When full-time and part-time position vacancies occur the Human Resources Director shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources, including organizations and news media available to minority applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary to establish a diverse and qualified applicant pool.

Job Advertisements.

Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment.

All persons expressing interest in employment with the City shall be given the opportunity to file an application for positions which are currently vacant and open for applications.

Selection.

Department Heads, with the assistance of the Human Resources Director, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience

qualifications required for the position, including criminal history where job-related using the DCI when needed. All selection devices administered by the City shall be valid measures of job performance. **Appointment.**

Before any commitment is made to an applicant either internal or external, the Department Head shall make recommendations to the Human Resources Director including the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Human Resources Director and Department Head shall recommend approval of appointments and the starting salary for all applicants to the City Manager. The City Manager will make the final decision on all internal and external applicants.

SECTION 4. PROBATIONARY PERIOD

An employee appointed or promoted to a regular position shall serve a probationary period of six-months, except that employees in sworn police, entry level fire, and Department Heads positions shall serve a twelve-month probationary period. Employees hired as "trainees" shall remain on probation until the provisions of their trainee status are satisfied. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Employees serving a twelve-month probation shall have a probationary review at the end of six months as well as before the end of twelve months. The probationary period for employees of the fire department and sworn police officers may be shortened (but to no less than 6 months) for employees based on experience and qualifications upon the recommendation of the Department Head and approval of the Human Resources Director and City Manager.

Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. The City Manager, upon a recommendation from the Department Head and Human Resources Director may extend the probationary period for a maximum of six additional months

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without following the steps outlined in this Policy. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed.

While serving in a probationary status, regular employees shall receive all benefits provided in accordance with this policy except that such employees may not take vacation leave (unless the denial of such leave will create a hardship) and shall not be entitled to utilize the appeal or grievance procedures established by this Policy.

SECTION 5. PROMOTION

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the City's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is the best suited of all applicants, that applicant shall be appointed to that position. The City will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community; and 3) obtaining the best possible employee who will provide the most productivity in that position. Therefore, except in rare situations where previous City experience is essential (such as promotions to Police Sergeant), or exceptional qualifications of an internal candidate so indicate, the City will consider external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions by submitting an internal application.

SECTION 6. DEMOTION AND REASSIGNMENT

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

Voluntary Demotion: When an employee wishes to be considered for a position with less complex duties and reduced responsibilities, they may apply by contacting Human Resources and submitting an Internal Application. A voluntary demotion is made without using disciplinary procedures.

Involuntary Demotion: A disciplinary demotion shall follow the disciplinary procedures outlined in this Policy.

SECTION 7. TRANSFER

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual internal application process. The Department Head wishing to transfer an employee to a different department or classification shall make a recommendation through the Human Resources Director to the City Manager with the consent of the receiving Department Head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this Policy.

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

ARTICLE V. CONDITIONS OF EMPLOYMENT

SECTION 1. WORK SCHEDULE

Department Heads shall establish work schedules in consultation with the Human Resources Director and may implement with the approval of the City Manager which meet the operational needs of the department in the most cost effective manner possible. Any alterations to employee schedules or shifts must be submitted to the Human Resources Director. Recommendations will be made by the Human Resources Director and Department Head to the City Manager for final approval.

Attendance with respect to these work schedules are the responsibility of all City employees. Excessive absenteeism and tardiness over a period of time are grounds for disciplinary action as outlined in Article IX.

SECTION 2. POLITICAL ACTIVITY

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

a) Engage in any political or partisan activity while on duty;

b) Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;

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

d) Coerce or compel contributions from another employee of the City for political or partisan purposes;

e) Use any supplies or equipment of the City for political or partisan purposes; or

f) Be a candidate for nomination or election to office under the City Charter;

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

SECTION 3. OUTSIDE EMPLOYMENT AND ACTIVITIES

The work of the City shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commissions and all self-employment must be reported in advance to the employee's supervisor, who in turn will report it to the Department Head. The Department Head Human Resources Director and the City Manager will review such employment for possible conflict of interest and then submit a record of the employment and review to the personnel file.

Conflicting or unreported outside employment, or the use of City resources for such employment are grounds for disciplinary action up to and including dismissal. Documentation of the approval of outside employment will be placed in the employee's personnel file. In some cases, non-compensated activities may also create a conflict of interest. Employees are encouraged to report such activities and to use good judgment when determining whether such activities are appropriate when considering their position with the City.

Examples of conflicts of interest in outside employment and/or activities *include but are not limited to:*

a) employment/positions with organizations or in capacities that are regulated by the employee or employee's department; or

b) employment/positions with organizations or in capacities that negatively impact the employee's perceived integrity, neutrality, or reputation related to performance of the employee's City duties.

SECTION 4. DUAL EMPLOYMENT

A full or part-time employee of the City may simultaneously hold another position with the City if the temporary position is in a different department and clearly different program area from that of the full or part-time position. The work of the temporary position must also be performed on an occasional or sporadic basis as identified in Fair Labor Standards Act regulations. However, the work of the full or part-time position shall take precedence over the temporary position, and such temporary work will not ordinarily count toward the calculation of overtime for pay or time off.

SECTION 5. EMPLOYMENT OF RELATIVES

The City prohibits the hiring and employment of immediate family or those with a close personal relationship in positions if such employment will result in one being in the chain of supervision of the other, nor where one member occupies a position which has influence over the others employment, promotion, salary administration, or other related management or personnel considerations. Employment of immediate family members or those with a close personal relationship in shall be prohibited within the same department, unless approved by the City Manager. This policy is intended to avoid circumstances that could create problems within the work unit or could undermine the public's perception of fairness in providing equal opportunity. For these reasons the city has limitations on the employment of relatives. This policy is not intended to prohibit relatives from working for the City.

DEFINITIONS:

a) "Immediate Family" is defined as: Spouse, parents, guardian, children, siblings, grandparents, great-grandparents, grandchildren, aunts, uncles, nieces and nephews, plus the various combination of half, step, in-law and adopted relationships that can be derived from the relationships above.

b) "Close Personal Relationship" for the purposes of this policy will include any relationship where the degree of closeness may suggest that problems might be created within the work unit, or

that the public's perception of fairness in providing equal opportunity for employment to all qualified individuals would be violated. This may include couples, roommates, other relatives who grew up together, or similar relationships.

The City also prohibits the employment of any person into a regular position who is an immediate family member or has a close personal relationship of individuals holding the following positions: Mayor, Mayor Pro Temp, City Council Member, City Manager, or Human Resources Director.

RULES AND PROCEDURES

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

b. Employees shall report any existing relationships as defined above when applying for other positions within the City of Brevard.

c. An employee who has, or develops, a relationship as defined above must report that relationship and/or any changes to those relationships to the Department Head, who shall notify Human Resources.

d. An employee must notify the Department Head in those cases where the degree of closeness of a relationship would suggest that problems might be created as defined above. The department will determine, in collaboration with the Human Resources Director, whether the closeness would result in a restriction on the position or job assignment.

e. If the reported relationship would require a restriction or job assignment, the Human Resources Director will work with the department to affect changes whenever possible. If changes are not possible to comply with this policy, one of the relatives may be required to resign from City employment.

f. Failure of an employee or supervisor to report any relationships that might be restricted by this policy to the Human Resources Director will result in corrective action, up to, and including dismissal.

g. Department Directors shall be responsible for ensuring compliance with this policy.

SECTION 6. INCLEMENT WEATHER AND EMERGENCY CLOSINGS

The City of Brevard recognizes there may be instances of inclement weather or emergency conditions that may prevent or modify its ability to provide full services to the community. This policy sets forth guidelines for determination of modification in operating hours and services, designation of essential employees, and how employees shall account for their time when released from their regular work schedule due to inclement weather or emergency conditions.

Definitions:

Inclement Weather: Adverse weather or other conditions that may prohibit some employees from reporting to work, but do not necessitate the closing of facilities or curtailment of operations.

Emergency Closing Condition: Conditions that may be hazardous to life or safety and necessitate the closing of a City facility or curtailment of operations such as: catastrophic life-threatening weather (i.e. snow, ice, hurricane, tornado, earthquake, flood, pandemic, or other natural disaster), fire, equipment failure, disruption of power and/or water, contamination by hazardous agents, terrorist acts, or forced evacuations from the work site.

Essential Employees: Employees whose nature of work/job duties and responsibilities are required for the essential operations of the City. Essential employees will be required to report for work per their regular schedule or may be called in to work on an unscheduled workday, despite an official closing, delay, or cancellation. Essential employees who are required to remain at work during hazardous times may be relieved of duties for the period necessary to assure the safety of their families.

Non-essential Employees: Employees whose nature of work/job duties and responsibilities are not generally required for the essential operation of the City. Non-essential employees are excused from work during an official closing, delay, or cancellation unless they are notified by an appropriate supervisor that they must report for work to support the necessary operations of the City government in spite of a closing, delay, or cancellation. Such determinations and notifications are made on a situation-specific basis and will not necessarily result in a permanent change to the non-essential employee designation for the position or require a change to the position description.

It is the general policy of the City that offices and facilities are open to provide regular services to the public during periods of inclement weather or other conditions of a non-emergency nature. However, the City Manager, or designee, shall determine when conditions exist that warrant the modification of operational hours such as a late opening, closing for the full day, or closing early.

Mandatory Operations and Essential Employee Designation:

Some City departments and operations must continue to provide services during periods of inclement weather and emergency conditions. These include Police, Fire, Public Works, Water Treatment, and Wastewater Treatment, and other internal service department staff needed as designated by the Department Head and/or City Manager.

The department head or City Manager shall pre-determine, as much as possible, services required and designate employees for provision of mandatory operations. It must also be determined if additional non-essential employees will be needed to support City functions on a case-by-case basis. An essential employee's late reporting or failure to report will result in review by the department head and can result in adjustment in leave hours, leave without pay, or disciplinary action as circumstances warrant.

Administrative Leave and Accounting for Time:

When the City Manager closes a facility and/or department for an entire day, non-essential employees will be required to use accrued time (compensatory time or vacation leave, in that order), or leave

without pay. Department heads may authorize employees to work from home under certain circumstances. If such work is authorized, any hours worked will be counted as normal work hours. Employees unable to work remotely may request to be reassigned to assist with essential functions and if work is available will be allowed to report and be paid for any hours worked.

Department Heads may also authorize employees to make up some of the missed hours during the same work week if work is available.

When the City Manager modifies operational hours (delayed opening or closing early) eligible non-essential employees may be granted paid Administrative Leave.

In order for a non-essential employee to be considered for Administrative Leave

1) The employee must be a full-time or part-time employee (regularly scheduled at least 20 hours per week).

2) The day in which operational hours are altered must be a day on which the employee would normally work.

3) The hours during which the City offices are altered must fall within the employees normally scheduled work day.

4) Employees already scheduled off work due to vacation or sick leave are not eligible for paid Administrative Leave.

5) Employees must report to work during the hours designated as open. An employee who does not report to work, reports later than scheduled opening or leaves earlier than scheduled closing will be not be eligible for any Administrative Leave.

6) Paid Administrative Leave hours cannot be used to take an employee's hours above their scheduled work day and/or work week.

    a) If an employee has already exceeded the hours of his/her standard workweek, the employee does not receive Administrative Leave for hours the City offices are closed.

    b) If actual hours worked on the day in which operational hours are altered are greater than the employee's scheduled work day, the employee does not receive Administrative Leave.

The City Manager may authorize additional pay to exempt employees at straight time for additional hours worked when all the following conditions occur:

- The Mayor has declared a state of emergency.
- Exempt employees are required to work additional hours for purposes of response and/or recovery
- during the emergency.
- Funds are available, and the department head has obtained approval from the Town Manager to use such funds for this purpose.

Auxiliary and Temporary employees are not eligible for paid Administrative Leave.

Any deviation from this policy in any way will only be on the authority of the City Manager, or his designee.

SECTION 7. WORKPLACE HARASSMENT

The City believes that all employees are entitled to work in an environment free from harassment, intimidation and coercion, allowing each employee to reach his or her full potential. The City prohibits any form of harassment, discrimination or intimidation based on age, color, disability, national origin, race, religion, sex, sexual orientation, or other characteristic or activity protected by federal, state or local law. Forms of harassment under this policy would include, but are not limited to:

- Racial slurs, ethnic jokes, sexual remarks;
- Posting of offensive statements, posters or cartoons, offensive material downloaded from the internet;
- Solicitation of sexual favors, unwelcome physical contact, sexually explicit telephone, text message or e-mail communications.

Any employee who believes they have personally experienced or directly observed an act of harassment should report the incident to their supervisor/manager or a member of the Human Resources department immediately.

An employee may skip a level(s) in the management chain in order to seek an impartial, uninvolved party with which to lodge their complaint.

Supervisor/managers or Directors who receive a complaint, or who personally observe harassing conduct, should inform the Human Resources Department immediately.

The City will not retaliate in any way against an individual who makes a report of harassment, nor will it permit any other employee to do so. Retaliation is a serious violation of this policy and should be reported immediately to those persons involved in investigating the initial complaint.

The Human Resources and/or Legal departments will conduct an investigation and will be required to report the findings to the appropriate Executive for further action.

The privacy of the employee filing the report and the employee under investigation shall be respected at all times, consistent with the obligation to conduct a fair and thorough investigation.

In the event Human Resources does not establish probable cause or determines the event did not occur, the parties involved will be notified and the findings of the investigation communicated on a need-to-know basis.

Any substantiated intentional act of harassment or proven retaliation in response to a complaint of harassment is considered to be a serious violation of this policy and will be dealt with accordingly through the City's Disciplinary procedures. Additionally, any employee proven to have falsely accused another employee of an act of harassment as defined under this policy will be subject to disciplinary action.

Although the City encourages and expects prompt reporting of harassment claims so that rapid responses and appropriate actions may be taken, no limited time frame will be instituted for reporting such claims. The late reporting of a claim will not in and of itself preclude the City from investigating and/or taking remedial action.

SECTION 8. SOLICITATION AND ACCEPTANCE OF GIFTS AND FAVORS

1) No official or employee may accept any gift, favor, or thing of value from any person who, to the knowledge of the official or employee, is interested directly or indirectly in any manner whatsoever in business dealings with the City, or who stands to derive some financial benefit by any action or decision of the City, under circumstances where such acceptance may have or may reasonably appear to have a tendency to influence that official or employee in the discharge of duties.

2) No official or employee may grant in the discharge of duties any improper favor, service, or thing of value.

3) No official or employee may use his position with the City to secure a contract for the purchase of goods or services from any firm or organization in which he has a direct financial interest.

4) No elected official may be employed by the City in any capacity. If an employee is elected or selected to an official position, then he or she forfeits his or her employment with the City upon assuming that office.

SECTION 9. SAFETY

Safety is the responsibility of both the City and its employees. It is the policy of the City to establish a safe work environment for employees. The City shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department Heads, Supervisors, and the Safety Committee are responsible for ensuring the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal. The City Manager is responsible for the administration of a comprehensive safety program or his designee.

SECTION 10. SOCIAL MEDIA

The City of Brevard recognizes that social media has become a common form of communication in the workplace and the community at large. Social media includes all means of communicating or posting information or content of any sort on the Internet, including to your own or someone else's web log or blog, journal or diary, personal website, social networking or affinity website, web bulletin board or a chat room.

The City has adopted this Social Media Policy to provide guidance to City of Brevard employees when using social media in order to prevent violations of existing City policies and protect against inappropriate social media content. Employees who fail to conduct themselves in a manner consistent

with this policy are subject to discipline, up to and including termination.

Employee Guidance for Participating In Social Media

1) Follow all copyright and privacy protection and disclosure laws that might apply to the City or your functional area.
2) Whenever possible and wherever content deems it appropriate, make it clear you are speaking for yourself and not on behalf of the City. Be mindful of your posts as you represent the City of Brevard, both on and off the clock. It is recommended that when commenting on City-related posts on non-City platforms or sites, in the spirit of transparency, that you identify yourself as a City employee.
3) The City advises that employees use discretion when using social media sites. Remember that what you write is public, may be public for a long period of time, and may spread to large audiences. Refrain from posting information that you would not want your supervisor or other employees to read or that you would be embarrassed to see in the newspaper or on television.
4) The City expects its employees to be truthful, courteous, and respectful toward supervisors, co-workers, citizens, customers, and other persons associated with the City. Employees shall not engage in inappropriate postings that may include discriminatory remarks, harassment, and threats of violence or similarly inappropriate or unlawful conduct.
5) Employees should be mindful when posting photos on their personal social media accounts that could be deemed questionable in nature.
6) City employees shall not divulge private, non-public, and confidential information gained by reason of their authority or position. This includes personal information (social security numbers or home addresses) about your co-workers without their consent, information that may put your co-workers in harm's way, and Human Resources investigations. Any posts outside of these parameters are subject to review by Brevard Human Resources.
7) Employees shall not post any material that could impair the effective delivery of public service or seriously disrupt the normal operation of any branch of the City government.
8) Employees shall not post photographs or other depictions of departments' uniforms, badges, patches, marked units and City, Police Department and/or Fire Department logos in a manner not befitting of and/or clearly harmful to the City's reputation unless pre-approved by the City Manager.
9) Brevard public safety employees shall not like, share or post any information about on-going criminal investigations, confidential departmental affairs or active emergency scenes. Where applicable, police and fire personnel should be mindful of the possible adverse consequences of postings regarding cross-examination in criminal cases.

When in doubt employees are encouraged to seek the guidance of supervisors regarding any posting that may adversely reflect upon either the department or upon the professionalism or integrity of the employee.

City employees should expect that any information created, transmitted, downloaded, exchanged or discussed in a public online forum may be accessed by the City at any time without prior notice. The City

reserves the right to monitor social media activities of employees, whether or not such activities are conducted with City resources, to the extent permitted and in accordance with applicable law.

Any employee who becomes aware of or has knowledge of any posting, website, or web page in violation of the provisions of this policy should notify his or her supervisor immediately for appropriate action.

As with checking personal email or personal use of Internet browsing on City equipment or technology, employees should limit participation for personal use on social networking or through websites or services such as Twitter, Facebook, or similar sites/services or posting to a blog or website, during working time. Personal use must not interfere with the employee's or other employees' ability to perform their jobs. Such personal use will be kept to a minimum and abuse of this privilege can result in disciplinary action up to and including termination.

SECTION 11. SUBSTANCE ABUSE POLICY

In order to ensure the safety and well-being of citizens and employees, and to comply with any state, federal, or other laws and regulations, the City is committed to providing a drug and alcohol free workplace for all employees.

No employee may use, possess, manufacture, distribute, dispense or sell alcohol or any controlled substance or illegal drug in the workplace or on the City's property, while on duty, on-call or while operating a City vehicle. In addition, no employee may report to work, remain on duty, or be placed on an on-call status while under the influence of or impaired by any illegal drug, controlled substance, or alcohol.

The City has procedures for pre-employment screenings, reasonable suspicion screenings, random screenings, and post-accident screenings in order to facilitate this policy. These procedures are implemented by the Human Resources Director.

All employees are responsible for helping assure that we maintain a safe, drug and alcohol free workplace. If any employee has a reasonable suspicion of any violations of this policy, the employee must immediately report this issue to their supervisor or Human Resources.

The City will investigate thoroughly and promptly all claims of violations of this policy, WITHOUT CONSEQUENCE TO THE EMPLOYEE REPORTING THE CONDUCT, so long as the report is made in good faith and the information provided is truthful to the best of the employee's knowledge. However, if, after investigating any allegation of a violation of this policy, the City determines that the report was not bona fide and was not made in good faith, or that any employee has provided false information, disciplinary action may be taken against the employee who filed the improper report or who gave the false information.

Retaliation against employees who make reports under this section is expressly prohibited.

VIOLATIONS OF THIS POLICY OR RETALIATION AGAINST EMPLOYEES FOR MAKING BONA FIDE REPORTS UNDER THIS POLICY, WILL SUBJECT AN EMPLOYEE TO DISCIPLINARY ACTION UP TO AND INCLUDING IMMEDIATE DISMISSAL.

SECTION 12. DISRUPTION OF THE WORK PLACE

The City has a responsibility to maintain a productive and professional work environment conducive to conducting the City's business. To that end, employees are expected to keep any work place disruptions and distractions to a minimum. This includes personal visits and phone calls, receiving personal mail or packages, charitable solicitations, or other activities that distract an employee or coworkers from the work of the City. Supervisors will provide feedback to employees on any actions that are becoming distracting.

SECTION 13. WORK PLACE VIOLENCE

The City of Brevard is committed to the safety of its employees and the public. The City's mission is to maintain a workplace that is free of violence. Violence by employees or anyone else against an employee or visitor on City property will not be tolerated.

All employees are responsible for helping assure that we avoid incidents of workplace violence in the workplace. It is the responsibility of every employee to contribute to the safety of our work environment by refraining from threats, violence or activities that may provoke violence, and conducting City business with respect for all City employees and its citizens.

Workplace violence includes, but is not limited to, the following:

- Harassment; stalking; physical violence; the use of weapons of any kind; the direct or implied threat of physical violence toward any employee or member of the public during working hours or by an employee on City premises or in City uniform.
- This list of behaviors, while not inclusive, provides examples of conduct that is prohibited by this policy:
    a) Causing physical injury to another person
    b) Making threatening remarks
    c) Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress
    d) Intentionally damaging employer property or property of another employee
    e) Committing acts motivated by, or related to sexual harassment or domestic violence

Any potentially dangerous situation must be reported immediately to a supervisor/manager and if necessary, the Police Department. Reports or incidents warranting confidentiality will be handled appropriately and confidentiality will be maintained to the farthest extent possible.

To promote this safe workplace, the City has developed reporting guidelines for possible internal and external threats. If any employee receives, overhears or becomes aware of any threatening communications from an employee or outside third party, the employee must report it to his/her

supervisor or the Department Head, immediately and follow the City's reporting guidelines. An employee's failure to report such conduct or to fully cooperate in the City's investigation of such conduct could result in disciplinary action.

Employees should not engage in or encourage another employee to engage in either physical or verbal confrontation with a potentially violent individual. If any employee encounters any individual who is threatening immediate harm to the employee, themselves or any other person, contact the police immediately.

The City reserves the right to seek a civil "no-contact" order in accordance with the provisions of the North Carolina General Statutes on behalf of any City employee who has been the victim or target of workplace violence or other unlawful conduct in the workplace in violation of this policy.

Anyone with questions in regards to potential violence or threats should contact his/her Department Head, Human Resources Director or the City Manager.

VIOLATIONS OF THIS POLICY AGAINST WORKPLACE VIOLENCE WILL SUBJECT AN EMPLOYEE TO DISCIPLINARY ACTION UP TO AND INCLUDING IMMEDIATE DISMISSAL.

SECTION 14. VEHICLE OPERATION

All employees driving City vehicles or driving personal vehicles for work related reasons must adhere to all traffic laws, speed limits, and pedestrian courtesies. When an incident warrants investigation one will be conducted by the Department Head, Supervisor, Human Resources Director, Finance Director and other resources as needed. A recommendation will be forwarded to the City Manager upon evaluation of the investigation and actions could warrant disciplinary actions outlined in Article IX.

SECTION 15. APPROPRIATE PERSONAL APPEARANCE, CLEANLINESS & UNIFORMS

All City employees will be advised of the appropriate dress for each department. It is the responsibility of all employees to adhere to the appropriate personal appearance for that work area.

In some departments uniforms may be provided along with professional cleaning service for these items. Uniform items provided by the City for employees include the following: appropriate safety shoes, work shirts, pants & jackets (when needed and budgeted by department), and safety equipment. These items must be purchased by the Department Head or Supervisor. In the event an individual makes purchases for uniform items and requests reimbursement the Finance Department may ask for additional receipts or information in regards to those items purchased. Items in question may be forwarded to the Department Head and City Manager for clarification prior to any reimbursement for items purchased.

In addition to personal cleanliness, all employees should keep their work unit clean and free of safety hazards.

Concerns regarding personal appearance or cleanliness should be forwarded to Department Heads and the Human Resources Director.

SECTION 16. PROHIBITION OF WEAPONS

Under no circumstances are weapons permitted on any City property, including parking areas, including but not limited to the following: firearms, switchblade knives, knives with a blade longer than four (4) inches, dangerous chemicals, explosives, including blasting caps, chains and other object carried for the apparent use of injuring or intimidating another.

Provided however that this section shall not be applicable to Police and/or Fire Department personnel with respect to such items which are issued for use in the performance of their official duties.

SECTION 17. ADHERENCE TO ADOPTED SECURITY POLICIES

In order to ensure the safety and security of the City of Brevard employees, city officials and the public, all employees are required to adhere to the City Hall Security Policy and such other Security Policies as may be adopted by the City Council from time to time.

SECTION 18. COMPUTER AND ELECTRONIC COMMUNICATION POLICY

ELECTRONIC COMMUNICATIONS

The City may maintain electronic communication systems ~~(e.g. voice mail, e-mail, internet access),~~ and ~~may provide computers and other electronic~~ devices ~~(e.g. cell phones, personal data assistants)~~as defined below for employees' use. ~~These systems and electronic devices are provided to assist employees in the conduct of City business, and should be used only for those purposes. Employees are responsible to check for and respond to messages in a timely manner~~. Employee access to the City's electronic systems and devices imposes certain responsibilities and obligations and as such, access is granted subject to relevant City policies and local, State and Federal laws. This policy applies to all City of Brevard employees, elected officials, and appointees.

Definitions:

1. Electronic Communication Systems – are systems owned, operated, or leased by the City. They include but are not limited to telephones, cellular phone lines, MiFi's, voicemail, email, and internet access.

2. Device – A device is a cellular phone, desktop computer, laptop, tablet, MiFi, or other electronic equipment used for communication that is capable of connecting to a network or the internet.

3. Network – Any of the following, whether through owning, leasing, maintaining, or otherwise controlling:

    a. The interconnection of communication systems with a computer through remote or local terminal, or a complex consisting of two or more interconnected computers or telephone switching equipment.

    b. Internet service.

    c. Internet access.

    ~~a.~~d. Pornography - Any material depicting sexual activity, and "sexual activity" is defined in G.S. 14-190.23. If the material depicts any of the seven categories of acts defined as "sexual activity" in G.S. 14-190-13, then it constitutes "pornography" for the purpose of this policy.

Employees are authorized to use only the computer software and hardware licensed by the City. A City employee is authorized to use these systems when they have been given a user name and password and has read and signed the Personnel Policy acknowledgement.

Electronic communication systems and devices are for business use any personal use must be brief, infrequent, not interfere with the employee's or other employees' work and be on the employee's own time.

Unauthorized reading or listening to other employee's voice or electronic communications by other employees is expressly prohibited except where necessary for the conduct of City business; ~~however~~however, these systems and electronic devices are not private. All such systems and electronic devices and the data stored on them are and remain at all times the property of the City. All electronic communications and/or messages composed, sent and received on personal computers or other electronic communication systems or devices are and remain the property of the City, and no employee has an expectation of privacy with regard to their use of any of these systems or devices. The City reserves the right to retrieve, read, monitor, randomly audit and/or retain any message or information transmitted, composed, sent, received or accessed on any such system or device, including but not limited to for the purpose of enforcing the City's No-Harassment/No-Discrimination policy and other policies.

Usage of these systems and electronic devices is a privilege and good judgment should be exercised at all time. Examples of prohibited/inappropriate uses of electronic communication systems (including e-mail) by City employees include, but not are limited to: Illegal activities, Threats, Harassment, Slander, Defamation, violations of the City's workplace violence policy, political endorsements, commercial activity (defined as buying/selling items or services for personal gain), chain letters, violations of copyright laws, violation of City policy, or for any purpose which would compromise the integrity of the City in any way. Under no circumstances may any electronic communication systems or other electronic devices provided by the City be used to send, receive or retrieve any material that may be reasonably considered offensive or disruptive to any employee. Examples of prohibited material would include, but not be limited to: sexual comments or images, racial slurs, pornographic material or any words or images which could reasonably be considered to be in violation of the City's No-Harassment/No-Discrimination Policy.

The City shall not permit employees, elected officials, or appointees to view pornography on devices owned, leased, maintained, or otherwise controlled by the City.

The City shall not permit employees, elected officials, or appointees, to view pornography via the City's electronic communication systems, including its internet network, regardless of what device is utilized, even if the City does not own the device.

The City shall report to the State Chief Information Officer, in the format required by the State Chief Information Officer, annually by August 1st each year, all unauthorized viewing of pornography on the City's network or devices.

Certain employees might need to view material that would be considered pornography in order to carry out their official duties. The City does not prohibit the viewing of pornography on a City issued device or network by any employee who is engaged in any of the following activities in the course of performing their official job duties:

- Investigating or prosecuting crimes, offering or participating in law enforcement training, or performing actions related to other law enforcement purposes;
- Identifying potential security or cybersecurity threats;
- Protecting human life;
- Establishing, testing, and maintaining firewalls, protocols, and otherwise implementing G.S. 143-805;
- Participating in judicial or quasi-judicial proceedings;
- Researching issues related to the drafting of analysis of state laws as necessary to fulfill the requirements of the employee's official duties.

These systems are subject to public records laws in many cases. Electronic message procedures are recommended as the following. If messages have reference of administrative value and meet the definition of a Public Record, these should be printed and the hard copy, including transmission and receipt date, be placed in the corresponding case/project file. Messages that do not hold any

administrative or reference value should be deleted immediately. Messages that are subject to the Public Records Law should be deleted according to the municipal records retention policy.

Employees who learn of any misuse or violations of this electronic communications policy should notify their supervisor, department head, the HR Director or the City Manager immediately.

Violations of this electronic communications policy may result in discipline, up to and including discharge.

SECTION 19. WORKPLACE INSPECTIONS AND PRIVACY NOTICE

In order to safeguard the property of the City and our employees, maintain a safe working environment for our employees, and to help prevent the possession, sale and/or use of illegal drugs on City property, the City reserves the right to search any employee's office, desk, files, locker, sleeping areas, City owned vehicles or any other area or article which is on City property. Inspections may be conducted at any time, when the City Manager or department head determines that a search is appropriate.

Please be aware that all offices, desks, files, lockers, sleeping areas, City owned or maintained vehicles etc. are considered City property, and are provided for employee's use in their employment. The City will maintain a master key and/or a record of any combination/passcode for any locks installed in or on such areas. No employee should have an expectation of privacy with respect to any items or information located on or in City property, including but not limited to the areas listed above. As such, information and items which any employee considers private and/or personal should not be maintained on or in City property.

Refusal to cooperate or permit any inspection pursuant to this policy may result in disciplinary action, up to and including termination.

This policy regarding workplace searches shall be posted in conspicuous places on City premises where notices are customarily posted.

ARTICLE VI. EMPLOYEE BENEFITS

SECTION 1. ELIGIBILITY

All full-time employees of the City are eligible for employee benefits as provided for in this Article to the extent such benefits are made available to other similarly situated employees. The provision of the benefits described in this Personnel Policy are subject to availability of funds and the approval of the City Council in the City's annual budget, which is subject to change at the City's discretion with or without notice to the Employees. Temporary employees are eligible only for workers' compensation and FICA.

Regular Part-Time employees are eligible solely for the North Carolina Local Government Employee Retirement System, if they work the minimum number of hours to qualify, workers compensation, social security, unemployment compensation as prescribed by law and the Employee Assistance Program. Part-Time employees are also eligible to participate in any supplemental insurance or retirement plans.

SECTION 2. GROUP HEALTH AND DENTAL INSURANCE

The City provides group health and dental insurance programs for eligible full-time employees and their dependents. The provision of this benefit is subject to change and contingent upon the approval of the City Council.

Employees who meet the eligibility requirements may, if they so desire, purchase available group health and group dental through the City for themselves or for themselves and qualified dependents.

Employees shall be enrolled in the programs in accordance with the provision of the insurance contracts. Current employees enrolled in the group health plan and/or dental plan may make qualifying event changes only during the plan year and will have the opportunity to make election changes during Open Enrollment.

Information concerning cost and benefits will be available to all employees in the Human Resources office.

Continuation of benefits will be extended to all employees upon termination of employment, as required by law, and administered by the City's third party administrator for health benefits. The former employee will be responsible for the total premium amount for the type coverage designated on a timely basis.

SECTION 3. GROUP LIFE INSURANCE, SHORT-TERM DISABILITY, DEPENDENT LIFE INSURANCE

The City provides group life insurance, short-term disability, and dependent life insurance for each full-time employee subject to the stipulations of the insurance contract. Life insurance, short-term disability, and dependent life insurance will be provided on an annual basis to City employees based upon an outline of benefits recommended by the City Manager and approved by the City Council.

SECTION 4. OTHER OPTIONAL SUPPLEMENTAL INSURANCE PLANS

The City may make other supplemental insurance plans available to employees upon authorization of the City Manager or City Council. Upon this authorization the supplemental insurance options are up to the discretion of the employee and funded completely by the employee.

SECTION 5. RETIREE BENEFITS: HEALTH INSURANCE, DENTAL INSURANCE & NCLGER SYSTEM

The provision of Retiree Benefits described in this Personnel Policy are subject to the applicable provisions of the various benefits plans which may be available over time, the availability of funds and the approval of the City Council in the City's annual budget. All such benefits are subject to change at the City's discretion with or without notice to the Employees and/or Retirees.

Health & Dental Insurance. Employees who retire with the City under the North Carolina Local Government Employees' Retirement System may currently elect to stay on the group health and/or group dental policy until they are Medicare and/or Medicaid eligible; however the retirees must pay for the full cost of the coverage. Retired employee's premiums must be paid by the first of each month based on a system established by the Finance Director. Failure to pay the required premium will result

in loss of coverage. Retirees may elect to retain dental insurance even after becoming Medicare and/or Medicaid eligible.

Upon retirement the former employees must elect all health, dental, and life insurance benefits for themselves and any of their dependents. Once these elections are made, the retirees may not be eligible for coverage's that weren't elected at the time of retirement, meaning coverage's that were dropped will not be extended to a retiree upon this election to drop the coverage.

NCLGERS. Each employee who is expected to work for the City more than 1,000 hours annually shall join the North Carolina Local Governmental Employees' Retirement System on the first day of employment as a condition of employment. Newly hired employees, who are current members of the NC Local or State Government Employees' Retirement Systems, shall be covered under the retirement system by the City on their first day of employment.

Employee and employer contributions are mandated by the Retirement System. Employee contributions are paid as payroll deductions. Employer contributions are not paid as a match; this is the required amount for an employer to enroll an employee in the retirement plan.

SECTION 6. LAW ENFORCEMENT SEPARATION ALLOWANCE

The City of Brevard provides a separation allowance to retired sworn law enforcement officers, as defined by N.C. Gen Stat. 128-21(11d) or N.C. Gen Stat 143-166.50, and as required and provided by N.C. Gen Stat 143-166.42 Eligibility and continuation of these benefits shall be subject to the conditions outlined in N.C. Gen Stat. 143-166.42.

SECTION 7. SUPPLEMENTAL RETIREMENT BENEFITS

The City may make other supplemental retirement plans available to employees upon authorization of the City Manager or City Council. These can include but are not limited to 401K plans, 457 deferred compensation plans, and Roth IRA's. Upon this authorization the supplemental retirement options are up to the discretion of the employee and funded completely by the employee.

SECTION 8. SOCIAL SECURITY

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

SECTION 9. WORKERS' COMPENSATION

All employees of the City (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once. The HR Director must be notified within 24 hours of any injury, illness or incident. Upon return to work, the employee's salary will be computed on the basis of the last salary plus any salary increase to which the employee would have been entitled based upon performance and other compensation policies.

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two years from date of injury. The Department Head and the Human Resources Director will assist the employee in filing the claim.

SECTION 10. UNEMPLOYMENT COMPENSATION

In accordance with Public Law 94-566 and subsequent amendments, local governments are covered by unemployment insurance. City employees who are terminated due to a reduction in force or released from City service may apply for benefits through the local Employment Security Commission office, where a determination of eligibility will be made.

SECTION 11. TUITION ASSISTANCE PROGRAM

Full-time employees who have completed initial probation may apply for tuition reimbursement for courses taken on their own time, which will improve their skills for their current job or prepare them for promotional opportunities within the City service. Tuition, registration fees, laboratory fees, and student fees are eligible expenses. Employees may be reimbursed for eligible expenses for one class per academic semester or quarter.

Requests for tuition assistance shall be submitted to the Department Head prior to course registration and are subject to the review by the Human Resources Director and approval of City Manager, subject to availability of funds. The City will require a certificate of satisfactory completion of the course prior to reimbursement.

SECTION 12. EMPLOYEE ASSISTANCE PROGRAM

The City provides an Employee Assistance Network designed to help employees and their families deal with financial difficulty, family or marital conflicts, substance abuse, etc. This is an extremely confidential benefit. An employee, or family member residing in the same household, who is experiencing a personal crisis should feel free to contact the Employee Assistance Network. Contact information is available online at the City's website or with the Human Resources Director.

In the event a Department Head or supervisor identifies a problem with job performance or personal conduct issues on the job a management referral can be made to the Employee Assistance Network. This referral can be completed by contacting the Human Resources Director. Upon evaluation of the situation and approval by the City Manager this referral to the Employee Assistance Network can be considered a condition of employment. This decision will be made on a case by case basis and clearly communicated to the employee.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

SECTION 1. POLICY

The policy of the City is to provide vacation leave, sick leave, and holiday leave to all full-time and part-time employees. Employees shall accrue leave proportionately with each payroll. Part-time Fire Department personnel, or temporary personnel are not eligible for holidays, sick or vacation leaves under this policy.

SECTION 2. HOLIDAYS

The following days, and other such days as the City Council may designate, are holidays with pay for regular full-time and part-time employees of the City:

Month	Holiday	Observed
January	New Year's Day	January 1st
January	Martin Luther King, Jr. Day	Third Monday in January
March/April	Good Friday	Friday Preceding Easter
May	Memorial Day	Last Monday of May
June	Juneteenth	June 19th
July	Independence Day	July 4th
September	Labor Day	First Monday in September
November	Veteran's Day	November 11th
November	Thanksgiving	Fourth Thursday in November (2 days – Thursday and Friday)
December	Christmas	December 25 (3 days – see schedule below)

If Christmas day falls on the day of the week indicated below, the days set forth will be observed as holidays:

Day of the Week	***Days Off***
Sunday	Friday, Monday and Tuesday
Monday	Monday, Tuesday and Wednesday

Tuesday	Monday, Tuesday and Wednesday
Wednesday	Tuesday, Wednesday and Thursday
Thursday	Wednesday Thursday and Friday
Friday	Thursday, Friday and Monday
Saturday	Thursday, Friday and Monday

When any recognized holiday (except Christmas), falls on Saturday, the preceding Friday will be the designated holiday. When any other recognized holiday (except Christmas), falls on Sunday, the following Monday will be the designed holiday.

Eligibility: In order to receive a paid holiday, the employee must have been in a paid status (including the use of approved leave accruals) the day before and the day after the holiday (working at least 50% of regular working week). Employees will not be paid for a holiday if he or she is on leave without pay.

Part-time employees will also receive these holidays, provided that they are regularly scheduled to work on the day of the holiday. The amount of time for which the employee receives holiday pay will based on the average scheduled hours per week.

Employees required to work on any of these holidays shall receive the equivalent time off or receive the 8 hours of holiday pay in addition to hours worked. The City Manager may at his discretion work with departments to adjust schedules as needed when work is required on one of these holidays. Employees will also be granted one day of Floating Holiday per calenda year (starting in January 2025). This leave is provided to support diversity and offer flexibility by giving employees discretion to choose a holiday, event or paid day off that is significant to them.

- The Floating Holiday must be scheduled and approved in advance by the employee's supervisor.
- Every effort will be made to approve the requested holiday as work demands allow as long as approval does not adversely affect City services.
- Department Heads may rescind approval of an employee's Floating Holiday in the event of emergency/unforeseen situations that may arise, in order to meet work demands. In that situation, the impacted employee shall be allowed to submit a request for a different day to be utilized before the end of the calendar year.
- Eligible employees must submit Floating Holiday requests in full day increments.
- No Floating Holiday leave balance will be carried over to subsequent years.
- All unused Floating Holiday leave shall end and terminate without compensation when the employee resigns or is separated from the City.
- All other rules and conditions of Holiday Pay outlined in this policy apply to Floating Holiday.

SECTION 3. HOLIDAYS: EFFECT ON OTHER TYPES OF LEAVE

Regular holidays which occur during a vacation, sick or other type of paid leave period of any employee shall not be considered as vacation, sick, or other leave.

SECTION 4. HOLIDAYS: COMPENSATION WHEN WORK IS REQUIRED OR REGULARLY SCHEDULED OFF FOR SHIFT PERSONNEL

Employees that work in departments that do not close for holidays (i.e. Police Department, Water Treatment and Wastewater Treatment) shall be compensated for the holidays designated as a legal holiday in the following manner:

1) Work performed on the holiday shall be paid at the normal rate for the hours actually worked; unless hours worked meet or exceed overtime provisions.

2) Additional eight hours holiday paid will be paid for holiday pay.

3) An employee in one of these departments, similar to all other City employees, who are scheduled off on both the actual holiday and the day celebrated shall be entitled to pay for eight hours holiday pay.

Employees required to work on any of these holidays shall receive the equivalent time off or compensation as outlined above.

Departments may have additional policies regarding scheduled holiday time. These policies must be uniformly applied to everyone in that department and approved by the Human Resources Director.

SECTION 5. VACATION LEAVE

Vacation leave is intended to be used for rest and relaxation, school appointments, and other personal needs. Vacation leave may also be used by employees who wish to observe religious holidays other than those granted by the City. Employees who wish to use leave for religious observances must request leave from their respective Department Heads. The Department Head will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observance may be denied only when granting the leave would create an undue hardship for the City.

SECTION 6. VACATION LEAVE: USE BY PROBATIONARY EMPLOYEES

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six months of employment. Exceptions may be approved by the Department Head and/or the City Manager.

SECTION 7. VACATION LEAVE: ACCRUAL RATE

Each full and part-time employee of the City shall earn vacation at the following schedule, prorated by the average number of hours in the workweek (Section 16):

Years of Service	Days Accrued Per Year	Hours Per Pay Period (80 hrs)
0-4	12	3.692
5-9	15	4.65
10-14	17	5.230
15-19	20	6.153
20-24	22	6.77
25 plus	24	7.384

Accruals will be made on a bi-weekly period basis. Accruals may be adjusted/pro-rated when an employee does not work a full two weeks.

ANNUAL LEAVE ACCRUAL WITH PRIOR LOCAL GOVERNMENT SERVICE.

The City of Brevard will allow each new employee with prior service in the North Carolina Local Government Employees Retirement System (LGERS) to accrue vacation accruals based on years of contributing service to the LGERS when there has not been more than a one-year break in service. Employees must provide Human Resources with documentation that shows their total years of service in the LGERS within 60 days of hire. Years of service that have been withdrawn and/or purchased will not be eligible for consideration in calculating total years of service. Failure to provide proof of years of service within 60- days after the hire date will result in forfeiting this benefit.

This benefit will be made available for 60 days for any current City of Brevard employee who is earning annual leave at a rate less than the rate which equals their total years of service in the North Carolina Government Employee Retirement System (LGERS) prior to employment with the City of Brevard. Current employees will have 60 days from the adoption of this policy to provide Human Resources with notification either in person or via email that they have additional years of service in the LGERS.

Human Resources will verify an employee's total service years. Accrual rates will be adjusted after the verification is complete and will not be retroactive but will take effect once verification has occurred. The new Annual Leave accrual rate will be effective beginning January 1, 2021.

This benefit of recognizing additional service years, not earned in the City of Brevard, does not affect an employee's qualification for longevity pay or seniority.

SECTION 8. VACATION LEAVE: MAXIMUM ACCUMULATION

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. However, if the employee departs from service, payment for accumulated vacation leave shall not exceed 240 hours.

Effective with the last payroll in the calendar year, any employee with more than 240 hours of accumulated leave shall have the excess accumulation removed so that only 240 hours are carried

forward to January 1 of the next calendar year. Employees are not eligible to receive pay for vacation time not taken. At the end of the calendar year any employee with more than the designated number of vacation leave shall have the excess accumulation converted to sick leave. Converted sick leave shall be used in the same way as accrued sick leave.

Employees are cautioned not to retain excess accumulated vacation leave until late in the year. Because of the necessity to keep all functions in operation, large numbers of employees cannot be granted vacation leave at any one time. If an employee has excess leave accumulation during the latter part of the year and is unable to take such leave because of staffing demands, the employee shall receive no special consideration either in having vacation leave scheduled or in receiving any exception to the maximum accumulation.

SECTION 9. VACATION LEAVE: REQUESTING USE OF VACATION LEAVE

Employees should request vacation leave in advance of the proposed leave period and leave shall be granted at those times designated by the Department Head which will least obstruct the normal operations of the City. Department Heads are responsible for ensuring that approved vacation leave does not hinder the effectiveness of service delivery. Requests should be made in advance to provide Department Heads with the maximum opportunity to evaluate the request and ensure the workplace is adequately staffed.

SECTION 10. VACATION LEAVE: COORDINATION OF LEAVE

1) Pay in lieu of vacation shall not be an option.
2) The City does not advance vacation time. Employees must have earned vacation leave before the leave may be used.
3) Vacation leave shall not be used to complete a resignation period after the last day of actual work.
4) If an employee is on vacation and becomes hurt or ill, that person may exercise the option to use sick time; the Department Head may request medical verification.
5) After having used all eligible sick leave, an employee may request to use accrued vacation leave or compensatory time off for a qualified Family and Medical Leave event.

SECTION 11. VACATION LEAVE: PAYMENT UPON SEPARATION

An employee who has successfully completed the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 240 hours, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation, four weeks in advance of the effective date for Department Heads. Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave. The notice requirement may be waived by the City Manager when deemed to be in the best interest of the City.

Employees who are involuntarily separated may receive payment for accumulated vacation leave subject to the 240 hours maximum. Employees dismissed for criminal conduct or detrimental personal conduct, as defined in Article IX, may be determined ineligible to receive vacation pay.

The estate of an employee who dies while employed by the City shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the 240 hour maximum established.

SECTION 12. SICK LEAVE

Sick leave with pay is not a right which an employee may demand but a privilege granted by City Council for the benefit of an employee.

Full-time and regular part-time employees may be granted sick leave for an absence due to the following reasons:

1) Sickness or bodily injury that prevents the employee from performing his/her regular duties.
2) Medical or dental appointments.
3) Exposure to a contagious disease when continuing to work might jeopardize the health of others,
4) To care for a member of the immediate family who is ill,
5) Absences related to the death of an immediate family member, but not to exceed three days for any one occurrence, and
6) To supplement Workers' Compensation and Short Term Disability leave.

Immediate Family: Spouse, parents, guardian, children, siblings, grandparents, great-grandparents, grandchildren, aunts, uncles, nieces and nephews, plus the various combination of half, step, in-law and adopted relationships that can be derived from the relationships above.

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

SECTION 13. SICK LEAVE: ACCRUAL RATE AND ACCUMULATION

Each full-time employee shall earn sick leave on a bi-weekly basis at the equivalent of 12 days per year, based on the average work week. Sick leave for part-time employees shall be prorated as described in this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the City, except as stated for employees retiring or terminated due to reduction in force.

SECTION 14. TRANSFER OF SICK LEAVE FROM PREVIOUS EMPLOYER

The City will accept sick leave balances when documented by a previous employer when the employee worked for a previous employer covered by the State or Local Government Retirement System and the employee did not withdraw accumulated contributions from that employer when leaving employment. The sick leave will be treated as though it were earned with the City of Brevard. The sick leave amount must be certified by the previous employer, and it is the employee's responsibility to provide documentation from his or her previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon successful completion of the probationary period.

The same standards shall apply for an individual who is re-employed with the City of Brevard and has a prior documented sick leave balance that was not transferred to another employer.

SECTION 15. SICK LEAVE: MEDICAL CERTIFICATION

The employee's supervisor or Department Head may require a physician's certificate stating the nature of the employee's or employee's family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave or whenever the supervisor observes a "pattern of absenteeism." The employee may be required to submit to such medical examination or inquiry as the Department Head deems desirable. The Department Head shall be responsible for the application of this provision to the end that:

1) Employees shall not be on duty when they might endanger their health or the health of other employees; and

2) There will be no abuse of leave privileges.

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

SECTION 16. LEAVE PRORATED

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

1) The number of hours worked by such employees shall be divided by the number of hours in the basic work week (usually 40 hours)

2) The proportion obtained in step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic work week.

3) The number of hours in step 2 divided by 26 shall be the number of hours of leave earned biweekly.

SECTION 17. BEREAVEMENT LEAVE

A full-time or regular part-time, employee who has a death in the Immediate Family (as defined in Section 12 of this Article) is eligible for up to 3 days of paid bereavement leave. An employee who wishes to take time off due to the death of an immediate family member should notify his or her supervisor as soon as possible. If more leave time is desired or needed, or for deaths that are not covered by the Immediate Family designation, vacation leave or accrued compensatory time may be taken with the approval of the supervisor. Bereavement leave pay cannot duplicate any other compensation for the same time period or be used to pay an employee more than their regularly scheduled hours for the workweek. Employees out on approved Family Medical Leave, Workers' Compensation, or Leave without pay are not eligible for Bereavement Leave.

SECTION 18. PAID PARENTAL LEAVE

Regular full-time and regular part-time employees are eligible for up to six (6) weeks of paid parental leave following the birth of an employee's child or the placement of a child with an employee in connection with adoption or foster care. The purpose of paid parental leave is to enable the employee to care for and bond with a newborn or a newly adopted or newly placed child. This policy will run concurrently with the Family and Medical Leave Act (FMLA) Policy, as applicable. This policy will be in effect for births, adoptions, or placements of foster children occurring on or after July 1,2024.

Coverage and Eligibility

An employee's eligibility for Paid Parental Leave shall be made based on the employee's months of continuous service and hours worked as of the date that the child is born or placed via adoption, foster or other legal placement.

Employees who have completed at least 30 days of employment but less than 6 months of employment immediately preceding the date of the event, are eligible for 2 weeks of Paid Parental Leave.

Employees who have completed six months but less than 1 year of employment immediately preceding the date of the event, are eligible for 4 weeks of Paid Parental Leave.

Employees who have completed at least 12 months of service immediately preceding the date of the event will be eligible for 6 weeks of Paid Parental Leave. Employees do not gain additional weeks of paid leave during the 12 months following the event, eligibility is based on the service time as of the date of the event.

In addition, employees must meet one of the following criteria:

- Have given birth to a child.
- Have adopted a child or been placed with a foster child (in either case, the child must be age 17 or younger).
- Note: Other legal placement does not include parental custody cases or legal assignments as a Guardian ad Litem (GAL). This provision does not apply to the adoption of a stepchild by a stepparent or similar circumstances.
- Surrogate mothers and sperm donors are not eligible for parental leave.

Amount, Time Frame and Duration of Paid Parental Leave

- Eligible employees will receive a maximum of six (6) weeks of paid parental leave per birth, adoption, or placement of a child/children. The fact that a multiple birth, adoption, or placement occurs (e.g., the birth of twins or adoption of siblings) does not increase the six-week total amount of paid parental leave granted for that event. In addition, in no case will an

employee receive more than six weeks of paid parental leave in a rolling 12-month period, regardless of whether more than one birth, adoption or foster care placement event occurs within that 12-month time frame.

- Each week of paid parental leave is compensated at 100 percent of the employee's regular, straight-time weekly pay (to exclude overtime, on-call, or any supplemental pay types). Paid parental leave will be paid on a biweekly basis on regularly scheduled pay dates. Employees who work alternate schedules (police, fire, Water, Wastewater, etc.) will only receive six consecutive calendar weeks, regardless of schedule.

- Approved paid parental leave may be taken at any time during the 12-month period immediately following the birth, adoption, or placement of a child with the employee. Paid parental leave may not be used or extended beyond this 12-month time frame.

- Employees must take paid parental leave in one continuous period of leave and must use all paid parental leave during the 12-month time frame indicated above. Any unused paid parental leave will be forfeited at the end of the 12-month time frame.

- Upon termination of the individual's employment, he or she will not be paid for any unused paid parental leave for which he or she was eligible.

- If the employee requires leave before the actual birth, adoption, or placement due to medical reasons or to fulfill legal obligations, other available leave balances shall be utilized in accordance with the city's policy. Paid parental leave shall not be used prior to the qualifying event.

Coordination with Other Policies

- Paid parental leave taken under this policy will run concurrently with leave under the FMLA; thus, any leave taken under this policy that falls under the definition of circumstances qualifying for leave due to the birth or placement of a child due to adoption or foster care, the leave will be counted toward the 12 weeks of available FMLA leave per a 12-month period. All other requirements and provisions under the FMLA will apply. In no case will the total amount of leave—whether paid or unpaid—granted to the employee under the FMLA exceed 12 weeks during the 12-month FMLA period. Please refer to the Family and Medical Leave Policy for further guidance on the FMLA.

- After the paid parental leave has been exhausted, any employee requesting additional leave that may be available still under the FMLA (if balance exists) will be compensated through employees' accrued sick, vacation and compensatory time. Upon exhaustion of accrued sick, vacation and compensatory time, any remaining leave will be unpaid leave. Please refer to the Family and Medical Leave Policy for further guidance on the FMLA.

- The city will maintain all benefits for employees during the paid parental leave period just as if they were taking any other city paid leave such as paid vacation leave or paid sick leave.

- If a city holiday occurs while the employee is on paid parental leave, such day will be charged to holiday pay; however, such holiday pay will not extend the total paid parental leave entitlement.

- If the employee is on paid parental leave when the city offers administrative leave (known as an "admin day"), that time will be recorded as paid parental leave. Administrative leave will not extend the paid parental leave entitlement.

- An employee who takes paid parental leave that does not qualify for FMLA leave will be afforded the same level of job protection for the period of time that the employee is on paid parental leave as if the employee were on FMLA-qualifying leave.

- Paid Parental Leave cannot be paid concurrently with any other leave or any applicable Short Term Disability.

Employee Responsibility

- The employee will provide his or her supervisor and the human resource department with notice of the request for leave at least 30 days prior to the proposed date of the leave (or if the leave was not foreseeable, as soon as possible).

- The employee must complete the necessary HR forms and provide all documentation as required by the HR department to substantiate the request. Official documents may include FMLA certification paperwork, Birth Certificate or Report of Birth, Adoption Order, Proof of Placement, etc.

SECTION 19. FAMILY AND MEDICAL LEAVE POLICY

Eligible Employees are regular full-time and part-time employees who: (1) have been employed with the City for at least 12 months; (2) have worked at least 1,250 hours during the 12 months immediately prior to the commencement of the leave; and (3) are employed at a worksite where 50 or more employees are located within 75 miles of the worksite.

Basic FMLA Leave

Eligible Employees may take up to 12 weeks of unpaid leave during any 12-month period for any one or a combination of the following reasons:

- to care for the employee's child after birth or placement for adoption or foster care;
- to care for the employee's spouse, son or daughter or parent with a serious health condition;
- for the employee's own serious health condition (including any period of incapacity due to pregnancy, prenatal medical care or childbirth) which makes the employee unable to perform one or more of the essential functions of his/her job; and/or

- because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter or parent is a covered military member on active duty or has been notified of an impending call or order to active duty in support of a contingency operation.

Rules and definitions pertaining to basic FMLA Leave.

- Serious Health Condition. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider (generally within 30 days of the first day of incapacity) or one visit and a regimen of continuing treatment under the supervision of the health care provider; incapacity due to pregnancy or for prenatal care; incapacity or treatment due to a chronic serious health condition; permanent or long-term conditions; or conditions which require multiple treatments. Other conditions may also meet the definition of continuing treatment.

- The amount of basic FMLA Leave an eligible employee is entitled to will be calculated based on a rolling 12-month period. This means that any FMLA Leave an eligible employee has used during the preceding twelve (12) months will be counted to determine the amount of available FMLA Leave remaining. Thus, each time an employee uses FMLA Leave, the amount of FMLA Leave which the employee has available is the balance of the twelve (12) weeks that the employee has not used during the immediately preceding twelve (12) months.
- FMLA Leave for the birth, placement for adoption or foster care of a child is available only during the first twelve (12) months after the birth or placement of the child for foster care or adoption.
- When both spouses work for the City and are both Eligible Employees, the total leave in any 12-month period for both spouses will be limited to 12 weeks if the leave is taken for the birth, care after birth, placement for adoption or foster care of a child, or to care for a sick parent.
- In the case of FMLA Leave for the birth, placement for adoption or foster care of a healthy child, intermittent leave or working reduced hours is not ordinarily permitted.

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.

Rules Applicable to Special Injured Service member Leave

- A Covered Service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who is (1) 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 covered veteran is an individual 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.
- An employee may take up to 15 days of qualifying exigency leave related to the military member's Rest and Recuperation.
- Leave to care for a Covered Service member must be taken within the single 12 month period following the date the Eligible Employee first commences leave to care for a Covered Service member. Any leave remaining after the single 12 month period expires is forfeited.
- Leave to care for a Covered Service member, when combined with another FMLA qualified leave may not exceed 26 weeks during the single 12 month period.
- When both spouses work for the City and are both Eligible Employees, the total leave in any single 12-month period for both spouses will be limited to a combined total of 26 weeks if the leave is taken for the birth, care after birth, placement for adoption or foster care of a child, to care for a sick parent, or to care for a covered service member with a serious injury or illness.

Intermittent and Reduced-Schedule Leave

Intermittent leave and reduced work schedules may be permitted: (1) when medically necessary due to the employee's serious medical condition; (2) when medically necessary to care for a parent, son, or daughter with a serious health condition; (3) when medically necessary to care for a Covered Service member with a serious injury or illness; (4) to provide care of psychological comfort to a covered family member with a serious health condition or a Covered Service member with a serious injury or illness; or (5) due to a Qualifying Exigency.

Rules Applicable to Intermittent/Reduced Leave Schedule

- In the case of FMLA Leave for the birth, placement for adoption or foster care of a healthy child or care of a parent, intermittent leave or working reduced hours is not ordinarily permitted.

- If an eligible employee requests intermittent leave or leave on a reduced work schedule for planned medical treatment, the employee must make a reasonable effort to schedule the treatment so as not to unduly disrupt City operations.

- If an eligible employee requests intermittent leave or leave on a reduced hours basis, the City reserves the option in the City's sole discretion, to require the employee to transfer, at their current pay and benefit level, to an alternative job for which the employee is qualified and which better accommodates the employee's need for intermittent leave or reduced hours than the employee's regular job.

General Rules for FMLA Leave

Employee Obligations

- All requests for FMLA Leave should be submitted to the Human Resources Director, and all questions regarding potential FMLA leaves of absence, eligibility, availability, etc. should be directed to the Human Resources Director. If FMLA Leave is planned in advance (expected or foreseeable) the employee must submit a request for leave at least thirty (30) days before the leave is expected to begin.
- If FMLA Leave is unexpected, or if an employee has less than thirty (30) days before the leave is scheduled to begin, the employee should notify his/her Supervisor and the Human Resources Director as soon as the employee is aware they will need leave. In this case an employee should submit their request for leave as soon as possible. Except in emergency situations, all employees will be expected to comply with the City's normal call-in policies for absences.
- If an employee fails to give 30 days' notice for foreseeable leave without a reasonable excuse for the delay, or fails to comply with the City's call-in requirements, the employee's FMLA leave request may be denied or delayed.
- Employees must provide the City with sufficient information for the City to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. An employee may do this by either requesting FMLA leave specifically or explaining the reasons they need leave sufficiently so that the City can ascertain that the leave is FMLA qualifying.
- An employee must advise the City if the reason they are requesting leave is for a reason for which FMLA leave was previously taken or certified.
- Employees must also respond to questions and provide requested information to Human Resources to enable us to determine if they qualify for FMLA leave.
- It is the employee's responsibility to provide the City with complete and sufficient medical certification to support their need for leave because of their own or a covered relative's serious health condition. Calling in "sick" without providing the reasons the employee needs leave, is not sufficient. Failure to provide the information requested or to authorize your health care provider or family member's health care provider to provide the required information may result in denial of the employee's request for leave.
- The City reserves the right to require an employee to obtain a second opinion from a health care provider selected by the City if we deem it appropriate. If there is disagreement between the health care providers with respect to an employee's need for leave, the City may require the opinion of a third, mutually agreed upon health care provider. In certain circumstances the City may also contact an employee's health care provider for clarification or authentication of the employee's leave certification form.
- It is the employee's responsibility to provide the City with complete and sufficient certification and supporting documentation supporting the employee's need for military family leave. This may include copies of relevant active duty orders or other documentation issued by the military, a certification from the employee setting forth the reasons the leave is needed and /or certifications completed by an authorized health care provider of the Covered Service member.

- If the City determines that the reason an employee is out on leave is FMLA qualified, the City will designate the leave as FMLA leave at the City's discretion even if the employee has not specifically requested FMLA leave. In some cases, the City may designate this leave retroactively as FMLA leave with written notice to the employee of this designation.
- Employees should initiate a discussion with the Human Resources Director if the employee questions whether any absence should have been considered as a FMLA leave.

While an* Employee *is on FMLA Leave:

- The City may require the employee to report periodically on the employee's status and intention to return to work, and the City may also require periodic reports from the employee or the employee's family member's health care provider.
- Employees should notify the Human Resources Director as soon as they become aware of any change in the circumstances of the original FMLA Leave request, (i.e., the employee is able to return to work earlier than expected, or the employee will require FMLA Leave for longer than originally expected). Additional health care provider certifications/recertification may be required for extensions of FMLA Leave or situations where an employee will be returning to work prior to the expiration of your original certification.
- An employee will be required to use all of their accrued and unused sick, vacation, and compensatory leave as a part of their twelve (12) weeks of FMLA leave, unless they are out on worker's compensation leave. Once the employee's accrued leave time has been exhausted, the balance of FMLA Leave will be unpaid unless the employee is eligible for paid leave such as worker's compensation.
- Any share of health and dental premiums, along with any elected voluntary benefits, normally paid by the employee prior to leave must continue to be paid by the employee during the leave period. If the employee goes into an unpaid FMLA status, they must work with the Human Resources Department and make arrangements to pay those premiums. If the employee's failure to make the premium payment leads to a lapse in coverage, the City shall upon the employee's return to work, restore the health coverage equivalent to that which the employee would have had if leave had not been taken and the premium payments had not been missed. If an employee is out on FMLA Leave as a result of a Worker's Compensation injury, the employee's FMLA Leave and Worker's Compensation leave will run concurrently (i.e., Worker's Compensation leave will count against the employee's FMLA Leave entitlement).
- Employees will be eligible to receive Holiday pay while the employee is on FMLA Leave as long as they have accrued leave to use for the day prior to and after the holiday. Employees will not be eligible for Holiday pay if they are in an unpaid FMLA status. ***The City's Obligations***
- The employee is entitled to receive written notice telling the employee: 1) whether the employee is eligible for FMLA leave; 2) the amount of leave to which the employee is entitled; 3) any additional information that will be required; 4) the employee's rights and responsibilities; and 5) if the City has determined the employee is not eligible for FMLA leave, the reasons why.
- During an employee's FMLA leave, all of the employee's group health benefits (e.g., major medical, hospitalization, and dental insurance) will continue, provided the employee continues to make the regular employee contributions to these plans, if any. Other benefits, such as

pension, 401(k), life insurance, and long-term disability, will be governed in accordance with the terms of each benefit plan.

- Vacation, other employment benefits and seniority will accrue during periods of paid FMLA Leave and for purposes of vesting in pension or other retirement plans, an employee's service will be treated as continuing without a break during paid FMLA Leave. When an employee is in an unpaid FMLA leave status, leave accruals and retirement contributions will not continue.
- When an employee returns from FMLA Leave, the employee is entitled to be reinstated to his/her former or an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Exceptions to this provision may apply: (a) if business circumstances have changed during the FMLA Leave (e.g. the employee's job is no longer available due to a downsizing or job elimination); (b) the employee is a highly compensated employee; (c) the employee's leave has exceeded the amount of FMLA leave to which the employee was entitled; or (d) the employee has been on light duty in excess of 12 months.

Conditions on Return to Work/Failure to Return after Leave.

- In the case of FMLA Leave taken for an employee's own serious health condition, before the employee will be permitted to return to work from FMLA Leave, the employee will be required to present the City with a medical certification that he/she is capable of returning to work. (No certification will be required in the case of intermittent leave unless there are safety concerns or physical restrictions).
- If an employee is able to return to work earlier than expected, the employee will be required to give the City at least two business days' notice prior to the date the employee intends to report back to work if feasible, and the employee will be required to present the City with a medical certification that he/she is capable of returning to work on that date.
- If an employee fails to return to work after the expiration of his/her FMLA Leave, the employee will be required to reimburse the City for the full premiums for group health benefits premiums paid on his/her behalf during the FMLA Leave, unless the reason for the employee's failure to return to work is the continuation or presence of a serious health condition or circumstances beyond the employee's control.

Enforcement Information.

Under the FMLA, it is unlawful for any employer to interfere with, restrain or deny the exercise of any right provided under the FMLA or to discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

An employee may file a complaint with the United States Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

In the event of any conflict between the provisions of the FMLA and this policy or any other leave policy of the City, the FMLA shall prevail.

SECTION 19. LEAVE OF ABSENCE WITHOUT PAY

A full or part-time employee may be granted a leave of absence without pay for a period of up to twelve months by the City Manager. The leave shall be used for reasons of personal disability, sickness or disability of immediate family members, continuation of education, special work that will permit the City to benefit by the experience gained or the work performed, or for other reasons deemed justified by the City Manager.

A leave of absence is a discretionary benefit to regular full and part time City employees. The City has no obligation to approve an unpaid leave of absence. The City will consider certain factors in making determination, some, but not all of which are included below:

a) Length of employment

b) Operational needs of the department

c) Prior performance and employment records

d) The reason for the leave of absence.

Leave of Absence requests are considered only after an employee has exhausted, or will have exhausted, all other leave that can be used for the situation under consideration. This may include, but is not limited to, compensatory time, holiday leave, annual leave, sick leave or donated leave.

Requests for a leave of absence are to be submitted in advance and in writing to the employee's Department Head, stating the anticipated start date, anticipated date of return, and the reason for the leave. An employee should not begin an unpaid leave of absence before it is approved. The City will consider extraordinary circumstances with appropriate documentation.

Approval: A Department Head may approve an unpaid leave of absence request of five (5) days or less. For requests of more than five (5) days, the requests must be approved by the Human Resources Director and City Manager.

The employee is obligated to return to duty within or at the end of the time determined appropriate by the City Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay. If the employee decides not to return to work, the supervisor shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation.

Effect on Benefits. An employee on unpaid leave may continue his or her participation in the City's insurance or other benefit plans at his or her expense, subject to any regulations approved by the City and any regulations of the insurance carrier. In addition, any employee on unpaid leave ceases to accrue vacation and sick leave and paid holiday benefits on the date that the leave without pay begins.

SECTION 20. WORKERS' COMPENSATION LEAVE

North Carolina Workers' Compensation law provides medical and disability compensation including a weekly compensation benefit for time lost from work, which is a percentage of the employee's average weekly wage up to a maximum established annually by the NC Industrial Commission. Benefits are provided to employees through the workers compensation insurance provider I the injury/illness meets their eligibly guidelines.

There is a seven (7) calendar day waiting period where no compensation for lost time will be provided. During the seven (7) day waiting period, employees may elect to use their accumulated compensatory time, vacation or sick leave. If the employee has exhausted his/her leave hours, he/she will be placed on Workers' Comp leave without pay immediately.

The City allows eligible employees the option to use previously accrued leave (compensatory time, sick or vacation) as a supplement to the payments provided by workers compensation. This optional supplement can only be used to cover payroll deductions such as medical, dental, vision, etc. and the remaining one-third of salary. At no time shall the combination of the supplemental leave benefit and the weekly workers' compensation payments exceed the employees' normal net compensation after taxes. Supplemental leave benefits are subject to withholdings such as state and federal income taxes, Social Security and Medicare. Supplemental leave benefits will not be subject to retirement system contributions or 401k contributions per retirement system guidelines.

When an employee is placed on Workers Comp leave without pay, the employee will cease to earn vacation and sick leave accruals and holiday pay for any week in which they are on leave without pay. Employees receiving Workers' Compensation benefits shall cease contributing to the North Carolina Local Governmental Employees' Retirement System. Upon returning to work, employees may purchase credit for the period of time they received Workers' Compensation benefits. Additional information on purchasing service credits can be obtained from the State Retirement System. Temporary and part-time employees will go directly into leave without pay status and will receive all eligible benefits under the Worker's Compensation Act.

Return to Work

When an injured employee is released to return to work by the authorized treating physician and the employee has not been separated, the employer should act as follows:

1. If an injured employee has reached maximum medical improvement and has been released to return to work without restrictions or with restrictions that can be accommodated, the City shall return the employee to the same position held prior to the period of workers' compensation leave.

2. If an injured employee has reached maximum medical improvement and has been released to return to work by the authorized treating physician but has been assigned work restrictions which cannot be accommodated in the previous position, the City shall attempt to place the employee in another position that is suitable to the employee's capacity.

3. If an injured employee has not reached maximum medical improvement but is able to return to work with restrictions assigned by the authorized treating physician, the City shall provide a work assignment suitable to the employee's capacity and approved by the treating physician if such work is available.

Refusal of Suitable Employment

If an employee who is released to return to work by written statement of the authorized treating physician refuses suitable employment or work assignment, the employer shall request termination of compensation payments and implement separation procedures.

SECTION 21. MILITARY LEAVE

Regular employees who are members of the National Guard or Armed Forces Reserve have all leave and job rights under applicable state and federal law.

In addition to their rights under law, the City provides the following benefits:

Regular employees who are members of the National Guard or Armed Forces Reserve will be allowed fifteen (15) calendar day of military training leave annually with full Pay. If military duty is required beyond this fifteen (15) day period, the employee shall be eligible to elect to take accumulated vacation leave, or be placed in a leave without pay status once accrued vacation leave is exhausted. While on military leave – either with or without pay – the employee's leave credits and other benefits shall continue to accrue as if the employee physically remained with the City during this period, to the full extent permitted under the City's benefit policies and applicable law.

SECTION 22. CIVIL LEAVE

A City employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the City any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty.

SECTION 23. PARENTAL SCHOOL LEAVE

A City employee who is a parent, guardian, or person standing in loco parentis (in place of the parent) may take up to four hours of unpaid leave annually to involve him or herself in school activities of his or her child(ren). This leave is subject to the three following conditions:

a) The leave must be taken at a time mutually agreed upon by the employee and the City;

b) The City may require the employee to request the leave in writing at least 48 hours prior to the time of the desired leave; and

c) The City may require written verification from the child's school that the employee was involved at the school during the leave time.

Paid leave (vacation time or compensatory time) taken by an employee to attend to school activities of his or her child shall count toward the fulfillment of this provision by the City.

SECTION 24. SHARED LEAVE

The City's Shared Leave policy provides the opportunity for an employee to donate vacation leave to another employee on an "employee to employee" basis. This is a benefit supported solely by the contribution of vacation leave and is designed to provide extended sick leave benefits due to a serious medical condition of the employee or a member of the employee's family who lives in the employee's place of residence, or children, stepchildren, parents or spouse, regardless of place of residence; and will require the employee's absences for an extended period of time (at least 4 weeks).

In order to be eligible to receive voluntary shared leave an employee must have complied with the existing leave policies and:

a) Recipient must work in a regular full-time position for at least one (1) year, serving at minimum of 30 hours per week.

b) Have a prolonged serious medical condition (or a member of the employee's family as described above) that requires the employee's absence for a prolonged period of time.

c) Have exhausted all accrued leave (vacation, sick, compensatory time)

d) Short term, incidental, non-critical medical situations, including normal pregnancies not requiring bed rest, and absences for well-baby care are not considered *Verifiable Medical Emergencies*.

e) Absences covered by worker's compensation shall not be considered under this policy.

f) Employees who have given notice that they are resigning or retiring from the City, shall not be eligible to donate leave under this policy.

g) Apply to become a recipient.

h) Produce medical certification documenting the need for the leave beyond the available accumulated leave including the estimated length of time needed, and

i) Be approved by the City Manager.

Upon approval, any additional unused donated leave shall be returned to the donor on a prorated basis and credited to the leave account from which it was donated. If a recipient separates from employment, participation in the program ends and donated leave will be returned to the donor on the same prorated basis.

An employee on short-term disability will only be allowed to use shared leave in increments to supplement short-term disability payments. At no time shall the combination of the shared leave and the short-term disability payments exceed the employees' normal net compensation after taxes.

The Human Resources Director will establish a system of leave accountability and record keeping.

No employee will be allowed to intimidate, threaten, or coerce any other employee for the purpose of interfering with any right which the employee may have with respect to donating, receiving, or using leave under this program. Any such action may be grounds for disciplinary action.

Federal and State privacy laws require that medical information remain confidential. Therefore, when disclosing information on an approved recipient (employee or family member), only a statement that the recipient has a prolonged medical condition can be made. If the recipient wishes to make either his or her identity or his or her medical status public, then he or she must sign a release to allow the information to be known.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

SECTION 1. TYPES OF SEPARATIONS

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

SECTION 2. RESIGNATION

An employee may resign by submitting the reasons for resignation and the effective date in writing to their immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks; four weeks for Department Heads. Failure to provide minimum notice shall result in forfeit of payment for accumulated vacation unless the notice is waived upon recommendation of the Department Head and approval by the City Manager.

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

SECTION 3. REDUCTION IN FORCE

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority in determining those employees to be retained. Employees who are separated because of a reduction in force shall be given at least two weeks' notice of the anticipated action. No regular employee shall be separated because of a reduction in force while there are temporary or probationary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee.

SECTION 4. DISABILITY

An employee who cannot perform the essential duties of a position because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the City. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the City Manager. The City may require an examination, at the City's expense, performed by a physician of the City's choice.

SECTION 5. RETIREMENT

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

SECTION 6. DEATH

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

SECTION 7. DISMISSAL

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

SECTION 8. REINSTATEMENT

An employee who is separated because of a reduction in force may be reinstated within one year of the date of separation, upon recommendation of the Department Head, and upon approval of the City Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave.

SECTION 9. REHIRING

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

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT

Because the City aspires to high standards of performance and behavior from its employees, it has established a progressive discipline policy. This policy is intended for guidance and does not entitle employees to progressive discipline in all situations. This discipline policy does not alter the at-will nature of employment.

SECTION 1. DISCIPLINARY ACTION FOR UNSATISFACTORY JOB PERFORMANCE

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance. Ordinarily, the procedure outlined below should be followed; however it is within the Department Head's discretion, with the concurrence of the Human Resources Director, to bypass any or all of the below procedures when this is deemed to be in the best interest of the City.

The City Manager may delegate the responsibility to Department Heads in all cases of disciplinary suspension, demotion or dismissal. Department Heads must work closely with the Human Resources Director in all cases of disciplinary suspension, demotion or dismissal to ensure compliance with all applicable policies.

SECTION 2. UNSATISFACTORY JOB PERFORMANCE DEFINED

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

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

1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
2) Careless, negligent or improper use of City property or equipment;
3) Physical or mental incapacity to perform duties after reasonable accommodation;
4) Discourteous treatment of the public or other employees;
5) Absence without approved leave;
6) Improper use of leave privileges;
7) Failure to report for duty at the assigned time and place;
8) Failure to complete work within time frames established in work plan or work standards;
9) Failure to meet work standards over a period of time; or
10) Failure to follow the chain of command to address work-related issues.
11) Violation or neglect of safety rules, including unsafe actions, failure to promptly report a work-related injury or accident.
12) Conduct that discredits the employee or the City or willful conduct resulting in the misrepresentation of the City.
13) Failure to adhere to traffic laws while operating City vehicles or conducting work related business in personal vehicles.
14) Failure to comply with the Computer Usage Policy.

Provision to follow the chain of command DOES NOT apply in the following circumstances:

a) an employee may discuss any concerns he/she has with the Human Resources Director at any time;
b) an employee may contact the City Manager directly concerning a harassment complaint;
c) an employee may contact the City Manager directly concerning a discrimination complaint.

SECTION 3. COMMUNICATION AND WARNING PROCEDURES PRECEDING DISCIPLINARY ACTION FOR UNSATISFACTORY JOB PERFORMANCE

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

An employee whose job performance is unsatisfactory over a period of time should normally, but not necessarily, receive at least two documented warnings, one of which may be in the final written warning, from the supervisor before disciplinary action resulting in dismissal is taken by the Department Head; however it is within the Department Head's discretion, with the concurrence of the Human Resources Director, to bypass any or all of the below procedures when this is deemed to be in the best interest of the City.

Where such meetings occur, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the supervisor should ordinarily use the following steps:

1) A final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.

2) If performance does not improve, a written recommendation should be sent to the Department Head for disciplinary action such as suspension, demotion, or dismissal.

In the event that a supervisor is not present within a Department, the Department Head will assume the role of the supervisor in the above stated outline. During all stages of the process the Department should be communicating with the Human Resources Director. The City Manager assumes the role of the supervisor in the above stated outline for Department Heads in regard to disciplinary action for unsatisfactory job performance.

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

If after suspension or demotion, the employee's performance does not reach an acceptable level, the employee may be dismissed.

SECTION 4. DISCIPLINARY ACTION FOR DETRIMENTAL PERSONAL CONDUCT

Upon agreement between the Department Head and the Human Resources Director, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to City service in order to 1) avoid undue disruption of work; 2)to protect the safety of persons or property; or 3)for other serious reasons.

The City Manager is responsible for any disciplinary action for Department Heads regarding detrimental personal conduct as defined below.

SECTION 5. DETRIMENTAL PERSONAL CONDUCT DEFINED

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

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

1) Fraud or theft;
2) Conviction of a felony or the entry of a plea of nolo contendere thereto;
3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
4) Willful misuse or gross negligence in the handling of City funds or inappropriate personal use of equipment, supplies or computers;
5) Willful or wanton damage or destruction to property;
6) Willful or wanton acts that endanger the lives and property of others;
7) Possession of unauthorized firearms or other lethal weapons on the job;
8) Brutality or excessive force in the performance of duties;
9) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary and does not impair job performance and the supervisor is notified;
10) Engaging in incompatible employment or serving a conflicting interest;
11) Request or acceptance of gifts in exchange for favors or influence;
12) Engaging in political activity prohibited by this Policy;
13) Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status; or
14) Harassment of an employee or the public with threatening or obscene language and/or gestures;
15) Stated refusal to perform assigned duties, flagrant violation of work rules and regulations, or serious malfeasance of work;
16) Unauthorized release of confidential information or official records;
17) Failure to follow the grievance procedure set forth herein in reporting a grievance;
18) Gross negligence in operating City vehicle or personal vehicle while conducting City business.

SECTION 6. CONFERENCE

Before suspension, demotion, or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the Department Head, with the Human Resources Director will conduct a conference with the employee. At this conference, the employee in attendance may present any response to the proposed disciplinary action. The Department Head will consider the employee's response, if any, to the proposed disciplinary action and will, within three working days following the conference; notify the employee in writing of the final decision. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and employee's appeal rights.

The City Manager, in cases for Department Heads, will hold a conference consistent with the outline above.

SECTION 7. ADMINISTRATIVE LEAVE

With the approval of the City Manager, a department head may impose administrative leave (with or without pay) on any employee who has been accused of some action which, if the accusation is substantiated, would constitute a cause for disciplinary action. There may be no appeal from an Administrative leave period.

If administrative leave is imposed, the employee shall be notified in writing that the leave is non-disciplinary and temporary in nature (for example, pending the outcome of an investigation). Additionally, the employee will be told what the accusations or allegations are that triggered the leave and why an administrative leave has been imposed in the particular case. If the allegations or accusations are the subject of an internal investigation, such investigation shall be completed within 90 days of the commencement of the leave period unless prevented by events beyond the control of the City. If it is determined (through criminal trial, internal investigation or otherwise) that the charges are not substantiated, then the employee shall be reinstated with full recovery of any lost wages or benefits. If it is determined that the charges are substantiated, then appropriate disciplinary action may be taken in accordance with City policy. If an employee has been suspended without pay pending the outcome of the investigation and the employee is not dismissed and the discipline imposed is less severe than the suspension without pay the employee has already experienced, the employee may be entitled to partial recovery of lost wages or benefits according to the discipline imposed.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

SECTION 1. POLICY

It is the policy of the City to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

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

SECTION 2. GRIEVANCE DEFINED

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

SECTION 3. PURPOSES OF THE GRIEVANCE PROCEDURE

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

1) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
2) Encouraging employees to express themselves about the conditions of work which affect them as employees;
3) Promoting better understanding of policies, practices, and procedures which affect employees;
4) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
5) Increasing the sense of responsibility exercised by supervisors in dealing with their employees.
6) Encouraging conflicts to be resolved between employees and supervisors who must maintain an effective future working relationship, and therefore, encouraging conflicts to be resolved at the lowest level possible of the chain of command; and
7) Creating a work environment free of continuing conflicts, disagreements, and negative feelings about the City or its leaders, thus freeing up employee motivation, productivity, and creativity.

SECTION 4. PROCEDURE

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion or dismissal must be approved by the City Manager after a recommendation from the Department Head and Human Resources Director.

The grievance procedure may be altered by deletion of step 1 with the following qualifying events:

1) In the case of dismissal, the former employee has five working days to submit an appeal to the City Manager and begin the procedure at Step 2 upon notification to the Human Resources Director.

2) In the event a situation is present that has been formally discussed and documented with an employee, Department Head and Human Resources Director, the steps outlined in number one are void. The employee who wishes to file a grievance can submit an appeal to the City Manager, outlined in Step 2, upon notification to the Human Resources Director.

Informal Resolution. Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective Department Head as a resource to help resolve the grievance. In addition, the employee or supervisor may request mediation from a local mediation service or other qualified parties to resolve the conflict, upon approval of the Human Resources Director. Mediation may be used at any step in the process when mutually agreed upon by the employee and relevant City supervisor or Manager. Mediation is the process where a neutral party assists the parties in conflict with identifying mutually agreeable solutions or understandings.

Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to their Department Head in writing. The grievance must be presented within five (5) working days of the event or learning of the event or condition. Upon receipt of this notification the Department Head will alert the City Manager and the Human Resources Director. The Department Head shall respond to the grievance within five working days after receipt of the grievance. The Department Head should, and is encouraged to, consult with any employee of the City in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the Department Head is required to cooperate to the fullest extent possible.

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

Step 2. If the grievance is not resolved to the satisfaction of the employee at the end of Step 1, the employee may appeal, in writing, to the City Manager within five (5) working days after receipt of the response from Step1. The City Manager shall respond to the appeal, stating the determination of decision within ten (10) working days after receipt of the appeal.

The City Manager's decision will be final.

Grievance Accountabilities: Any grievance not processed in accordance with the time limits provided above shall be considered abandoned conclusively. Any grievance not answered by management in the time limits provided above automatically advances to the next higher step of the grievance procedures.

SECTION 5. ROLE OF THE HUMAN RESOURCES DIRECTOR

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

1) To advise parties (including employee, supervisors, Department Head, and City Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;

2) To be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents.

3) To give notices to parties concerning timetables of the process, etc.;

4) To assist employees and supervisors in drafting statements; and

5) To facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process; and

6) To help locate mediation or other resources as needed.

SECTION 6. GRIEVANCE AND ADVERSE ACTION APPEAL PROCEDURE FOR DISCRIMINATION

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or non-job related handicap), he or she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the City Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant must appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action.

ARTICLE XI. RECORDS AND REPORTS

SECTION 1. PUBLIC INFORMATION

In compliance with GS 160A-168, the following information with respect to each City employee is a matter of public record: name; age; date of original employment or appointment to the service; the terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the city has the written contract or a record of the oral contract in its possession; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the City may adopt.

SECTION 2. ACCESS TO CONFIDENTIAL RECORDS

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

1) The employee or his duly authorized agent may examine all portions of his personnel file except (i) letters of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.

2) A licensed physician designated in writing by the employee may examine the employee's medical record.

3) A city employee having supervisory authority over the employee may examine all material in the employee's personnel file.

4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.

5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution (of the employee), or for the purpose of assisting in an investigation of (the employee's) tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail,

information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

7) The city manager, with concurrence of the council, may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a city employee and the reasons for that personnel action. Before releasing the information, the manager or council shall determine in writing that the release is essential to maintaining public confidence in the administration of city services or to maintaining the level and quality of city services. This written determination shall be retained in the office of the manager or the city clerk, and is a record available for public inspection and shall become part of the employee's personnel file.

8) Even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:

9) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the city's service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.

10) Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.

11) Information that might identify an undercover law enforcement officer or a law enforcement informer.

12) Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

The city council may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that person certifies that he will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the city as long as each personnel file examined is retained.

Notwithstanding any provision of this section to the contrary, the Retirement Systems Division of the Department of State Treasurer may disclose the name and mailing address of former local governmental employees to domiciled, nonprofit organizations representing 2,000 or more active or retired State government, local government, or public school employees.

SECTION 3. PERSONNEL ACTIONS

The Human Resources Director, with the approval of the City Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of

the personnel system. There shall be one set of official personnel files, centrally located as designated by the City Manager, normally in the Human Resources office. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, Disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents.

SECTION 4. RECORDS OF FORMER EMPLOYEES

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

SECTION 5. REMEDIES OF EMPLOYEES OBJECTING TO MATERIAL IN FILE

An employee who objects to material in his/her file may place a statement in the file relating to the material considered to be inaccurate or misleading. The employee may seek removal of such material in accordance with established grievance procedures.

SECTION 6. INTERNAL INVESTIGATION RECORDS

Records relating to internal investigation into the conduct of an employee shall be kept separate from the personnel files. Such records shall be kept confidential, and no person may have access to such records or disclose any information contained therein without the written approval of the City Manager.

If an internal investigation is undertaken in response to a complaint by a citizen, then the City Manager may disclose to the complainant that an investigation was made and whether the charge was founded or unfounded. The City may not disclose the nature of any disciplinary action taken except to the extent authorized by Section 7 of this Article.

SECTION 7. PENALTIES FOR PERMITTING ACCESS TO CONFIDENTIAL RECORDS

Section 160A-168 of the General Statues provides that any public official or employee who knowingly and willfully permits any person to have access to information contained in a personnel file, except as is permitted by the general statutes, is guilty of a Class 3 misdemeanor and upon conviction shall be fined in an amount specified by the general statutes.

SECTION 8. EXAMINING AND/OR COPYING CONFIDENTIAL MATERIAL WITHOUT AUTHORIZATION

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

SECTION 9. DESTRUCTION OF RECORDS REGULATED

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with GS 121.5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever, alters, defaces, mutilates or

destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Policy 132.3 of the General Statutes.

Destruction of any public record(s) shall be coordinated with the City Clerk and disposed of in compliance with the Records Retention Schedule as adopted by Council. A complete list of records to be destroyed shall be filed with the City Clerk prior to destruction.

CITY OF BREVARD

PERSONNEL POLICY ACKNOWLEDGMENT FORM

I have received a copy of the City of Brevard's Personnel Policy.

I am agreeing to work under these standards and guidelines as outlined in the policy.

I understand these policies are a guide for procedures, benefits, and general information only and are in no way contractual in nature.

I understand the City reserves the right to make changes to these policies and procedures upon the approval of the City Council.

My signature indicates I understand the above statements.

Employee Name (Printed): _____ Date: _____

Employee Signature: _____

Department: _____

HR Director Signature: _____ Date: _____