

## **CHAPTER 10: PERSONNEL**

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## ARTICLE I: GENERAL PROVISIONS

### Section

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#### ***Cross-reference:***

*Code of Ethics, see Chapter 2, Article VI*

#### **§ 10-1.1 PURPOSE OF THE CHAPTER.**

It is the purpose of this chapter and any rules, regulations or policies adopted pursuant to it to establish fair and uniform guidelines for personnel administration for all employees of the city who are under the supervision of the City Manager. Nothing in this chapter is intended to create an employment contract or term of employment between the city and its employees. No provision or provisions of the City Code or any rules, regulations or policies adopted pursuant to it shall create or be construed to create an employment contract or term of employment between the city and all or any of its employees. The employment of all employees of the city may be terminated at the will of the employee or at the will of the city.

(Ord. passed 5-17-94)

#### **§ 10-1.2 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 as necessary. They also shall make and confirm appointments when so specified by the general statutes.

(Ord. passed 5-17-94)

#### **§ 10-1.3 RESPONSIBILITIES OF THE CITY MANAGER.**

(A) The City Manager shall be responsible to the City Council for the administration and technical direction of the personnel program. The City Manager shall appoint, suspend, and remove all city officers and employees except those elected by the people or 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 Chapter.

(B) The City Manager or designee shall prepare and maintain the position classification plan and the pay plan, and perform such other duties in connection with a modern personnel program as the City

Council shall require. All matters dealing with personnel shall be routed through the office of the City Manager who shall maintain a complete system of personnel files and records.

(C) The City Manager shall:

(1) Recommend rules and revisions to the personnel system to the City Council for consideration;

(2) Recommend revisions to the position classification plan to the City Council for approval;

(3) Prepare and recommend revisions to the pay plan to the City Council for approval;

(4) Determine which employees shall be subject to the overtime provisions of FLSA;

(5) Establish and maintain 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;

(6) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the city;

(7) Develop and coordinate training and educational programs for city employees;

(8) Investigate periodically the operation and effect of the personnel provisions of this chapter; and

(9) Perform such other duties as may be assigned by the City Council not inconsistent with this chapter.

(Ord. passed 5-17-94; Am. Ord. passed 1-13-99)

#### **§ 10-1.4 APPLICATION OF POLICIES, PLAN, RULES AND REGULATIONS.**

The personnel ordinance and all rules and regulations adopted pursuant thereto shall be binding on all city employees. Part-time employees, temporary employees, 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 chapter shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated.

(Ord. passed 5-17-94; Am. Ord. passed 1-17-02; Am. Ord. passed 8-29-09)

**§ 10-1.5 DEPARTMENTAL RULES AND REGULATIONS.**

Due to the particular personnel and operational requirements of the various departments of the city, each department is authorized to establish supplemental rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the written approval of the City Manager, and shall not in any way conflict with the provisions of this chapter, but shall be considered as a supplement to this chapter. A copy of all approved supplemental department rules and regulations shall be kept on file in the office of the respective Department, the City Manager, and the Human Resources Department.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98; Am. Ord. passed 3-18-03; Am. Ord. passed 8-29-09; Am. Ord. passed 2-18-14)

**§ 10-1.6 DEFINITIONS.**

For the purposes of this chapter, 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 the number of hours designated by the City Council as full-time, and continuous employment of at least 12 months, is required by the city. Forty hours or more shall be designated as the average work week for full-time employees.

***PART-TIME EMPLOYEE.*** An employee who is in a position for which an average work week of at least 20 hours and less than 40 hours and continuous employment of at least 12 months is required by the city. A part-time employee may be terminated at any time without cause. A part-time employee that has been terminated shall not have any rights of appeal or right to file a grievance claim or complaint under Article X of this chapter.

***PROBATIONARY EMPLOYEE.*** An employee appointed to a full-time position who has not yet successfully completed the designated probationary period.

***REGULAR EMPLOYEE.*** An employee appointed to a full-time position who has 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.*** 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.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98)



## **ARTICLE II: POSITION CLASSIFICATION PLAN**

### Section

- 10-2.1 Purpose
- 10-2.2 Use of the position classification plan
- 10-2.3 Administration of the position classification plan
- 10-2.4 Adoption of the position classification plan
- 10-2.5 Request for reclassification

### **§ 10-2.1 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.

(Ord. passed 5-17-94)

### **§ 10-2.2 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.

(Ord. passed 5-17-94)

### **§ 10-2.3 ADMINISTRATION OF THE POSITION CLASSIFICATION PLAN.**

The City Manager or designee shall allocate each position covered by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan. The City Manager shall periodically review portions of the classification plan to insure that classifications accurately reflect current job duties and responsibilities. The City Manager shall also periodically review the entire classification plan and, when needed, recommend changes to the City Council.

(Ord. passed 5-17-94)

**§ 10-2.4 ADOPTION OF THE POSITION CLASSIFICATION PLAN.**

The position classification plan shall be adopted by the City Council either independently or annually as a part of the annual budget and shall be on file in the office of the City Manager and the Human Resource Department. Copies shall be available to all city employees for review upon request. New positions shall be established upon recommendation of the City Manager and approval of the City Council after which the City Manager, or designee, shall either allocate the new position into the appropriate existing class, or amend the position classification plan to establish a new class to which the new position may be allocated.

(Ord. passed 5-17-94; Am. Ord. passed 8-29-09; Am. Ord. passed 2-18-14)

**§ 10-2.5 REQUEST FOR RECLASSIFICATION.**

Any employee who considers the position in which he/she is classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the department head to the City Manager. Upon receipt of such request, City Manager or designee shall study the request, determine the merit of the reclassification, and forward the recommendation to the City Council for consideration if the City Manager considers the request for reclassification to be approved.

(Ord. passed 5-17-94; Am. Ord. 10- -98)



## **ARTICLE III: THE PAY PLAN**

### Section

- 10-3.1 Definition
- 10-3.2 Administration and maintenance
- 10-3.3 Starting salaries
- 10-3.4 Trainee designation and provisions
- 10-3.5 Probationary pay increases
- 10-3.6 Performance evaluation and performance pay increases
- 10-3.7 Reserved
- 10-3.8 Salary effect of promotions, demotions, transfers, reclassifications, reassignments, special assignments and certifications
- 10-3.9 Salary effect of salary range revisions
- 10-3.10 Effective date of salary changes
- 10-3.11 Overtime pay provisions
- 10-3.12 Call-back and standby pay
- 10-3.13 Payroll deduction

### **§ 10-3.1 DEFINITION.**

The Schedule of Salary Ranges and Assignment of Classes to Salary Ranges which are on file in the office of the City Manager and Human Resource Department shall remain the salary plan of the city until changed by the City Council. The salary schedule consists of steps for minimum or beginning salary and a maximum rate of pay for all classes of positions.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98; Am. Ord. passed 1-17-02; Am. Ord. passed 8-29-09)

### **§ 10-3.2 ADMINISTRATION AND MAINTENANCE.**

(A) The City Manager or designee 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 trainee status or employees whose existing salaries are above the established maximum rate following transition to a new pay plan.

(B) The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the city, and other factors. To this end, from time to time the City Manager or designee shall make comparative studies of all factors

affecting the level of salary ranges. When major adjustments encompassing numerous positions are needed, or when a general adjustment is needed to the pay plan, the City Manager shall recommend such changes in salary ranges as appear to be warranted to the City Council. The City Council shall adopt the "Assignment of Classes to Grades and Ranges," including any minor adjustments made by the City Manager during the previous budget year, annually as part of the budget process.

(C) The City Manager shall have the right to make minor individual salary adjustments to various job classifications and individuals based upon job performance or comparable data for similar positions in similarly sized communities subject to the appropriation and availability of funds for this purpose in the annual operating budget. A minor adjustment in salary shall not exceed more than 8% in a given fiscal year; and any adjustment in salary in excess of 8% shall be approved by the City Council.

(Ord. passed 5-17-94; Am. Ord. passed 1-13-99; Am. Ord. passed 1-17-06; Am. Ord. passed 2-18-14)

### **§ 10-3.3 STARTING SALARIES.**

All persons employed in positions approved in the position classification plan shall be employed at the minimum salary for the classification in which they are employed; however, on the recommendation of the department head, with the approval of the City Manager, well qualified applicants may be employed above the minimum of the established salary range.

(Ord. passed 5-17-94; Am. Ord. passed 5-19-98; Am. Ord. passed 1-15-02; Am. Ord. passed 8-29-09)

### **§ 10-3.4 TRAINEE DESIGNATION AND PROVISIONS.**

(A) 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 may be no more than two grades below the minimum salary established for the position for which the person is being trained. A new employee designated as "trainee" shall be regarded as a probationary employee.

(B) If the training is not successfully completed as planned, the trainee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the minimum rate established for the position for which the employee was trained.

(Ord. passed 5-17-94)

### **§ 10-3.5 PROBATIONARY PAY INCREASES.**

Employees hired or promoted will be evaluated at six months intervals. Pay increases at the conclusion of the probationary period will be based on expected performance progress.

(Ord. passed 5-17-94; Am. Ord. passed 6- -95; Am. Ord. passed 8-29-09; Am. Ord. passed 2-18-14)

**§ 10-3.6 PERFORMANCE EVALUATION AND PERFORMANCE PAY INCREASES.**

Supervisors or department heads should fill out performance evaluations on each full-time employee annually on the employee's anniversary date or job date. In addition, supervisors or department heads are responsible for informal evaluation conferences during the course of the year to discuss performance goals and other issues or concerns addressed in the performance evaluation conference. All performance evaluations shall be documented in writing and signed by both supervisor and employee. Employees may be considered for advancement within the established salary range based on the quality of their overall work performance. Procedures for determining performance levels and performance pay increases shall be published in policies developed by the City Manager, with the approval of the City Council.

(Ord. passed 5-17-94; Am. Ord. passed 6- -95; Am. Ord. passed 8-29-09; Am. Ord. passed 2-18-14)

**§ 10-3.7 DELAY OF PERFORMANCE EVALUATION.**

An employee's absence from work due to sick leave, leave without pay, Worker's Compensation leave or any other authorized leave of absence is cause for the department head to request an extension for the performance evaluation review so as to allow adequate time for evaluation of performance.

(Ord. passed 10- -98)

**§ 10-3.8 SALARY EFFECT OF PROMOTIONS, DEMOTIONS, TRANSFERS, RECLASSIFICATIONS, REASSIGNMENTS, SPECIAL ASSIGNMENTS AND CERTIFICATION.***(A) Promotions.*

(1) When an employee is promoted, the employee's salary shall normally be advanced to the minimum level of the new position, or to a salary which provides an increase of at least 5% over the employee's salary before the promotion, provided, however, that the new salary may not exceed the maximum rate of the new salary range. The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility.

(2) When a city employee bids and receives a position that was advertised inside or outside the city for a certain starting salary, they cannot receive any starting pay other than what would be equal to what all applicants would receive with equal qualifications. In no event shall they make more than the maximum of that position until the City Council approves the change.

*(B) Demotions.* When an employee is demoted the salary shall be decreased by at least 5%.

*(C) Transfers.* The salary of an employee transferred 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 transfer.

(D) *Reclassifications.* An employee whose position is reclassified to a class having a higher pay range shall receive a pay increase of 5% or an increase to the minimum of the new pay range, whichever is higher. 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.

(E) *Reassignment.* An employee who is reassigned to a position in a higher pay range shall receive a pay increase of 5% or an increase to the minimum of the new pay range, whichever is higher. If the employee is reassigned to a position in a lower pay range, the employee's salary may be retained at the discretion of the City Manager if the current salary is within the new pay range. In the event the employee's salary is above the maximum of the new pay range, the employee's salary will be decreased to the maximum of the new pay range.

(F) *Special assignment.* When an employee's pay is increased to compensate the employee for additional duties and responsibilities, the employee's pay will be accordingly decreased when such employee is relieved of those additional duties and responsibilities.

(G) *Certifications.* If an employee receives certification from a state or nationally recognized agency, the employee will receive a 5% increase in salary. The certification must be approved in writing by the City Manager **prior** to the employee seeking certification. A certification shall be deemed acceptable when the employee provides a copy of the certification to their respective department head and to the Human Resources Department. Increases in salaries are subject to § 10-3.10 of this article.

(Ord. passed 5-17-94; Am. Ord. passed 7-19-94; Am. Ord. passed 6-16-98; Am. Ord. passed 10- -98; Am. Ord. passed 11-17-98; Am. Ord. 1-13-99; Am. Ord. passed 1-17-02; Am. Ord. passed 8-29-09; Am. Ord. passed 2-18-14)

### **§ 10-3.9 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 5% or to the minimum step of the new range, whichever is higher. 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.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98)

### **§ 10-3.10 EFFECTIVE DATE OF SALARY CHANGES.**

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

(Ord. passed 5-17-94)

**§ 10-3.11 OVERTIME PAY PROVISIONS.**

(A) Employees of the city can be requested and may be required to work overtime hours as necessitated by the needs of the city and determined by the department head, with the prior approval of the City Manager. The standard workweek (168 consecutive hours) for the city is Wednesday, 12:01 a.m. to Tuesday 12:00 midnight. With approval of the City Manager, the standard workweek may be changed at the request of the department head(s).

(B) To the extent that local governmental jurisdictions are so required, the city will comply with the Fair Labor Standards Act (FLSA). The City Manager, assisted by the personnel specialist, 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 up to the FLSA established limit for their position (usually 40 hours in a 7-day period; hours for public safety personnel may be different). Hours worked by non-exempt employees beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. Compensatory time may be granted if requested by the employee and approved by the Department Head. In no event shall the amount of compensatory time exceed the maximum accumulation of compensatory time for each department, except that in emergency and/or special situations the City Manager may approve additional compensatory time over and above the maximum allowed. Non-exempt employees who have accumulated the maximum amount of compensatory time will be paid for all hours worked. Maximum accumulation of compensatory time shall be set as follows:

Public safety—Police	240 hours
Public safety—Fire	240 hours
Non-exempt personnel	80 hours
Exempt personnel	60 hours

(C) 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 taken, 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. When time off within the work period cannot be granted, overtime worked will be paid in accordance with the FLSA.

(D) In emergency situations, where employees are required to work long and continuous hours, the City Manager may approve compensation at time and one half for those hours worked and/or grant time off with pay for rest and recuperation to ensure safe working conditions.

(E) Employees in positions determined to be “exempt” from the FLSA (as executive, administrative, or professional staff) will not receive pay for hours worked in excess of their normal work periods. These employees will be granted compensatory leave by their department heads where the convenience of the department allows and in accordance with procedures established by the City Manager. Such compensatory time is not guaranteed to be taken and ends without compensation upon separation from the organization.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98; Am. Ord. passed 11-16-99; Am. Ord. passed 1-17-02; Am. Ord. passed 2-18-14)

### **§ 10-3.12 CALL-BACK AND STANDBY PAY.**

The city provides a continuous 24 hour a day, seven day a week service to its customers. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the city is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal.

(A) *Call-back.* Non-exempt full-time employees will be guaranteed a minimum payment of two hour's wages for being called back to work outside of normal working hours. “Call-back” provisions do not apply to previously scheduled overtime work or employees who are called to work while serving in a “on call” capacity. Hours worked when responding to emergency call-back will be compensated at time and one-half.

(B) *On call.* Non-exempt full-time employees required to be on “on call” duty will be paid for eight hours of work for each week (approximately 128 hours, excluding work time) of on call time they serve. On call compensation for less than one full week shall be determined by the ratio of .062 hours of pay per one hour of on call time. Hours actually worked while on call are calculated beginning when the employee reports to the work site and are added to the regular total of hours worked for the week. On call time is defined as that time when an employee is required and must remain near an established telephone or within the restricted beeper range.

(Ord. passed 5-17-94; Am. Ord. passed 10- -98; Am. Ord. passed 11-16-99; Am. Ord. passed 8-29-09; Am. Ord. passed 10-16-2012)

### **§ 10-3.13 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.

(Ord. passed 5-17-94)

## ARTICLE IV: RECRUITMENT AND EMPLOYMENT

### Section

- 10-4.1 Equal Employment Opportunity Policy
- 10-4.2 Implementation of Equal Employment Opportunity Policy
- 10-4.3 Recruitment, selection and appointment
- 10-4.4 Probationary period
- 10-4.5 Promotion
- 10-4.6 Demotion
- 10-4.7 Transfer
- 10-4.8 Reassignment

### **§ 10-4.1 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 age, sex, race, color, religion, national origin, non-disqualifying related handicap, political affiliation, or marital status. Applicants with physical handicaps shall be given equal consideration with other applicants for positions in which their physical handicaps do not prevent them from performing the essential functions of the job.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98)

### **§ 10-4.2 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 job requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, non-job related handicap, national origin, political affiliation, or marital status. Notices with regard to equal employment matters shall be posted in conspicuous places on city premises in places where notices are customarily posted.

(Ord. passed 5-17-94)

### **§ 10-4.3 RECRUITMENT, SELECTION AND APPOINTMENT.**

Subject to the provisions of the city promotion policy as set out in § 10-4.5:

(A) *Recruitment sources.* When position vacancies occur, department/division heads shall notify

the City Manager or their designee concerning the number and classification of the position(s) which are to be filled. The Manager's Office or his or her designee shall publicize these opportunities for employment either internally, externally or both, including applicable salary information and employment qualifications. Information on job openings and hiring practices for positions open to external candidates shall 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 ensure that well-qualified applicants are obtained for city service. The North Carolina Employment Security Commission should normally be used as a potential recruitment source for external job postings.

(B) *Job advertisements.* Employment advertisements (internal job postings and external job postings) shall contain assurances of equal employment opportunity and shall comply with federal and state statutes.

(C) *Application for employment.* All persons expressing interest in employment with the city shall be given the opportunity to file an application approved by the City Manager for employment for positions which are vacant. As part of the application process, each person shall provide a criminal history check under Article IX of Chapter 2. Existing employees who are internal candidates applying for a different position will not be required to submit an additional application for employment.

(D) *Application reserve file.* Applications shall be kept in an inactive reserve file for a period of six months, in accordance with Equal Employment Opportunity Commission guidelines.

(E) *Selection.* Department/Division heads, in coordination with the Human Resource Department and the City Manager shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position. All selection devices administered by the city shall be valid measures of job performance.

(F) *Appointment.* Before any commitment is made to an applicant either internal or external, the department/division head shall make recommendations to the Director of Finance and Personnel who will verify the accuracy of the applicant information and insure the recommendations adhere to the Personnel Ordinance. The Director of Finance and Personnel will forward the recommendation to the City Manager who shall review and approve the recommendation of the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The City Manager shall approve appointments and the starting salary for all applicants.

(Ord. passed 5-17-94; Am. Ord. 11-17-98; Am. Ord. passed 1-17-02; Am. Ord. passed 10-21-08; Am. Ord. passed 8-29-09; Am. Ord. passed 2-18-14)

#### **§ 10-4.4 PROBATIONARY PERIOD.**

(A) An employee appointed or promoted to a regular position shall serve a probationary period. Employees shall serve a six month probationary period, except that sworn public safety personnel and department heads shall serve a 12-month probationary period.



(B) During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. 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. Probationary periods may be extended for a maximum of six additional months.

(C) 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 chapter. 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.

(D) A new appointee may be dismissed at any time during the probationary period if the department head determines that the employee is incapable of doing their assigned duties satisfactorily. (Ord. passed 5-17-94; Am. Ord. passed 8-29-09; Am. Ord. passed 2-18-14)

**§ 10-4.5 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 through internal job postings. (Ord. passed 5-17-94; Am. Ord. passed 8-29-09; Am. Ord. passed 2-18-14)

**§ 10-4.6 DEMOTION.**

Demotion is the movement of an employee from one position to a position in a class assigned to a lower salary range. An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such demotion shall follow the disciplinary procedures outlined in this chapter. (Ord. passed 5-17-94)

**§ 10-4.7 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 by expressing their interest to the personnel specialist. The department head wishing to transfer an employee to a different department or classification shall make a recommendation to the City Manager. Employees who request transfer shall serve a probationary

period in the new position. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this chapter. An employee who has successfully completed a probationary period and is transferred without requesting transfer may be transferred without serving another probationary period.

(Ord. passed 5-17-94; Am. Ord. passed 1-26-99; Am. Ord. passed 2-18-14)

#### **§ 10-4.8 RECLASSIFICATION.**

Reclassification is the movement of an employee by the City Manager from one position classification to a different position classification that more accurately reflects the duties and responsibilities of the employee. Reclassifications may result in the employee being reclassified into a higher or lower pay range. Should this occur, salaries will be adjusted in accordance with the provisions set forth in § 10-3.8 of this chapter.

(Ord. passed 8-29-09)

#### **§ 10-4.9 REASSIGNMENT.**

Reassignment is the movement of an employee from their current position to a position previously held or for which they are qualified. Reassignments will normally occur as a result of organizational changes and needs. Reassignments may result in the employee being classified in a higher or lower pay range. Should this occur, salaries will be adjusted in accordance with the provisions set forth in § 10-3.8 of this chapter.

(Ord. passed 11-17-98; Am. Ord. passed 8-29-09)

## **ARTICLE V: CONDITIONS OF EMPLOYMENT**

### Section

- 10-5.1 Work schedule
- 10-5.2 Political activity
- 10-5.3 Outside employment
- 10-5.4 Dual employment of volunteer employees
- 10-5.5 Employment of relatives
- 10-5.6 Sexual harassment
- 10-5.7 Acceptance of gifts and favors
- 10-5.8 Safety
- 10-5.9 Residency requirement

### **§ 10-5.1 WORK SCHEDULE.**

Department heads shall establish work schedules, with the approval of the City Manager, which meet the operational needs of the department in the most cost effective manner possible. The number of hours of work assigned to each position should be posted upon advertisement and given to the new employee as a part of the orientation materials. The administrative work schedule shall be 40 hours per week.

(Ord. passed 5-17-94)

### **§ 10-5.2 POLITICAL ACTIVITY.**

(A) 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:

- (1) Engage in any political or partisan activity while on duty;
- (2) Use official authority or influence for the purpose of interfering with or affecting the result of a nomination or an election for office;
- (3) 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;

(4) Coerce or compel contributions from another employee of the city for political or partisan purposes;

(5) Use any supplies or equipment of the city for political or partisan purposes;

(6) Use city funds, supplies, or equipment for partisan purposes, or for political purposes except where such political uses are otherwise permitted by law;

(B) Any violation of this section shall subject the employee to disciplinary action up to and including dismissal.

(Ord. passed 5-17-94; Am. Ord. passed 6-9-94; Am. Ord. passed 8-29-09)

### **§ 10-5.3 OUTSIDE EMPLOYMENT.**

The work of the city shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission 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 will review such employment for possible conflict of interest and then submit a record of the employment and review to the City Manager. Conflicting or unreported outside employment is grounds for disciplinary action up to and including dismissal.

(Ord. passed 5-17-94)

### **§ 10-5.4 DUAL EMPLOYMENT OF VOLUNTEER EMPLOYEES.**

A full or part-time employee of the city may simultaneously hold another position with the city if the temporary position is voluntary and is in a different department or in a clearly different program area from that of the full-time or part-time position. However, the work of the full or part-time position shall take precedence over the volunteer work in the temporary position, and such volunteer work will not count toward the calculation of overtime for pay or time off.

(Ord. passed 5-17-94; Am. Ord. passed 6-9-94)

### **§ 10-5.5 EMPLOYMENT OF RELATIVES.**

(A) A member of an immediate family shall not be employed as a full-time or part-time employee if such employment will result in an employee directly supervising (immediate supervisor) a member of their immediate family. This policy applies to promotions, demotions, transfers, reinstatements and new appointments. The provisions of this section shall not be retroactive, and no action is to be taken concerning those members of the same family employed at the time of the adoption of this section.

(B) For the purpose of this section, immediate family shall be defined as spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, aunt, uncle, nephew, niece plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

(C) The City Manager is prohibited from hiring any of his/her immediate family to work for the City of Eden in any capacity to avoid any impropriety, potential for ethical conflicts of interest, and to avoid degradation of overall employee morale or citizen concerns of perceived or actual favoritism (nepotism).

(Ord. passed 5-17-94; Am. Ord. passed 7- -98; Am. Ord. passed 8-29-09; Am. Ord. passed 11-19-19)

**Statutory reference:**

*Personnel rules, see G.S. § 160A-164*

**§ 10-5.6 SEXUAL HARASSMENT.**

(A) The city opposes sexual harassment by supervisors and co-workers in any form. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(B) Any employee who believes that he or she may have a complaint of sexual harassment may file the complaint directly with the City Manager, their immediate supervisor or the Director of Finance and Personnel. The City Manager or their designee will conduct an investigation into any allegation of sexual harassment and advise the employee and appropriate management officials of the outcome of the investigation.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98; Am. Ord. passed 1-17-02; Am. Ord. passed 8-29-09)

**§ 10-5.7 ACCEPTANCE OF GIFTS AND FAVORS.**

No official or employee of the city shall accept any gift, favor, or thing of value that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service, or thing of value.

(Ord. passed 5-17-94)

**§ 10-5.8 SAFETY.**

Safety is the responsibility of both the city and employees. It is the policy of the city to establish a safe work environment for employees. The city shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department heads and supervisors are responsible for insuring 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.

(Ord. passed 5-17-94)

**§ 10-5.9 RESIDENCY REQUIREMENT.**

(A) Except as otherwise provided by ordinance or resolution, the City Manager shall live within the corporate limits of the city. The Chief of Police and Fire Chief shall reside within five miles of the city limits. If a nonresident of such area is employed, that person shall have 60 days from the date of employment to establish residency in such area. This requirement shall not apply to the appointment on an interim City Manager.

(B) If the City Manager, Chief of Police or Fire Chief ceases to live within the designated areas as outlined above, that person's employment shall be terminated unless otherwise provided by the City Council.

(C) Except as otherwise provided by ordinance or resolution, all employees required to be on-call shall reside within 30 minutes driving distance of the city. If a non-resident of such area is employed into any on-call position, that person shall have 60 days from the date of employment to relocate into such area.

(D) If any employee required to be on-call ceases to live within 30 minutes driving distance of the city, that person's employment shall be terminated unless otherwise provided for by the City Council. (Ord. passed 5-17-94; Am. Ord. passed 7-19-94; Am. Ord. passed 11-17-98; Am. Ord. passed 1-15-02; Am. Ord. passed 5-20-08; Am. Ord. passed 8-29-09; Am. Ord. passed 8-29-19)

## **ARTICLE VI: EMPLOYEE BENEFITS**

### Section

- 10-6.1 Eligibility
- 10-6.2 Group health and hospitalization insurance
- 10-6.3 Retiree life and health insurance
- 10-6.4 Group life insurance
- 10-6.5 Other optional group insurance plans
- 10-6.6 Retirement
- 10-6.7 Supplemental retirement benefits (401-K)
- 10-6.8 Social Security
- 10-6.9 Workers' compensation
- 10-6.10 Unemployment compensation
- 10-6.11 Tuition assistance program
- 10-6.12 Supplemental retirement saving programs
- 10-6.13 Christmas bonus
- 10-6.14 Reserved
- 10-6.15 Transfer of sick leave

### **§ 10-6.1 ELIGIBILITY.**

All full-time and part-time employees of the city are eligible for employee benefits as provided for in this article which are subject to change at the city's discretion. Temporary employees are eligible only for workers' compensation.

(Ord. passed 5-17-94)

### **§ 10-6.2 GROUP HEALTH AND HOSPITALIZATION INSURANCE.**

(A) The city provides group health and hospitalization insurance programs for full-time employees. The employee will be responsible for the premium of any selected dependent coverage.

(B) Information concerning cost and benefits shall be available to all employees through the Human Resource Department.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98; Am. Ord. passed 8-29-09)

### § 10-6.3 RETIREE LIFE, HEALTH AND DENTAL INSURANCE.

(A) *Life Insurance.* At its sole expense, the city will provide group life insurance for its retired employees' with an established death benefit.

(B) *Health And Dental Insurance.*

(1) An employee retiring on or before November 20, 2001, may, by paying 100% of the premium for the coverage, participate in the city's group health and hospitalization program so long as the city's contracts with its insurers permits such participation.

(2) An employee retiring on or after November 21, 2001 but before August 29, 2009 must retire under the North Carolina Local Government Retirement System and draw or currently be eligible to draw benefits from the system in order to qualify for payment of all or part of the health care and dental care insurance premium. Retirement system regulations on eligibility for retirement govern eligibility for the program. The city will pay the premium for the coverage based on the policies established by the Council, subject to change. The following schedule will be in effect until changed for employees retiring within the dates of this subsection:

<u>Years of Service</u>		<u>Individual Premiums</u>	
<u>At least</u>	<u>No more than</u>	<u>City pays</u>	<u>Employee pays</u>
25 years	30 years	75% or up to a maximum of \$ 412.50 per month, whichever is less	25% or the remaining cost, whichever is more
30 years		100% or up to a maximum of \$550 per month, whichever is less	0% or the remaining cost, whichever is more

(3) An employee hired on or before April 17, 2018 and retiring on or after August 29, 2009 must retire under the North Carolina Local Government Retirement System and draw or currently be eligible to draw benefits from the system in order to qualify for payment of all or part of the health care and dental care insurance premium. Retirement system regulations on eligibility for retirement govern eligibility for the program. The city will pay the premium for the coverage based on the policies established by the Council, subject to change. The following schedule will be in effect until changed:

<u>Years of Service</u>		<u>Individual Premiums</u>	
<u>At least</u>	<u>No more than</u>	<u>City pays</u>	<u>Employee pays</u>
20 years	25 years	50% or up to a maximum of \$ 275 per month, whichever is less	50% or the remaining cost, whichever is more



(4) Any employee hired after April 17, 2018 shall not qualify for payment of all or part of the health care and dental care insurance premium upon retirement and shall not qualify for participation in the City's health and dental insurance policy.

(5) A minimum of 50% of an employees years of service (10.0 years, 12.5 years or 15 years respectively) with the city shall be required in order to receive this benefit. The other 50% of an employees years of service (10.0 years, 12.5 years or 15 years respectively) must be with an agency/organization which is a member of a Statewide Local Government Employee's Retirement System or a Statewide Teacher's and Statewide Employee's Retirement System or other systems under a Department of State Treasurer or a self-funded Local Government Retirement System. Any sick leave converted for time at the end of service for retirement purposes shall count in the computation of time served with the city.

(a) Such employees may elect to purchase health care and/or dental insurance coverage for their eligible dependents and shall pay the full cost of this dependent coverage. Dependent coverage must be in place at least 12 months prior to an employee's retirement date.

(b) Payment of premiums for dependents must be paid in accordance with schedules and procedures established for the city's benefit by the City Manager or designee for the group health and dental plan. Failure to pay the required premium will result in loss of coverage, once coverage has been discontinued, it cannot be reinstated without the written approval of the City Manager.

(c) The city's payment of premiums for group health and dental coverage for retirees will be discontinued when:

1. The retiree begins to draw social security benefits and becomes eligible for Medicare; or
2. The retiree becomes eligible for 100% of social security benefits; whichever event occurs first between items 1 and 2; or
3. The retiree becomes eligible for social security disability.

Any employee not meeting the aforementioned criteria by paying 100% of the premium for coverage will be allowed to remain on the city's insurance policy for 18 months from the date of separation from the organization.

(Ord. passed 5-17-94; Am. Ord. passed 11-20-01; Am. Ord. passed 1-17-02; Am. Ord. passed 6-20-06; Am. Ord. passed 8-29-09; Am. Ord. passed 1-21-14; Am. Ord. passed 2-18-14; Am. Ord. passed 4-17-18; Am. Ord. passed 5-15-18; Am. Ord. passed 6-19-18)

#### **§ 10-6.4 GROUP LIFE INSURANCE.**

The city will provide group life insurance for each full-time employee subject to the stipulations of the insurance contract. Employees may elect to purchase additional coverage and/or to insure other family members under this plan at their expense.

(Ord. passed 5-17-94)

**§ 10-6.5 OTHER OPTIONAL GROUP INSURANCE PLANS.**

The city may make other group insurance plans available to employees upon authorization of the City Manager or City Council.

(Ord. passed 5-17-94; Am. Ord. passed 1-13-99; Am. Ord. passed 1-17-02)

**§ 10-6.6 RETIREMENT.**

Each regular employee of the city and each part-time employee that works for the city at least 1,000 hours annually shall join the North Carolina Local Government Employees' Retirement System when eligible as a condition of employment.

(Ord. passed 5-17-94; Am. Ord. passed 8-29-09)

**§ 10-6.7 SUPPLEMENTAL RETIREMENT BENEFITS (401-K).**

Law enforcement officers shall receive 401-K benefits as prescribed by the state laws; all other full-time employees as approved by the City Council.

(Ord. passed 5-17-94; Am. Ord. passed 6-20-06)

**§ 10-6.8 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.

(Ord. passed 5-17-94)

**§ 10-6.9 WORKERS' COMPENSATION.**

(A) 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.

(B) 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 Human Resource Department will assist the employee in filing the claim.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98)

**§ 10-6.10 UNEMPLOYMENT COMPENSATION.**

In accordance with Pub. L. 94-566 (26 USC 3305) 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.

(Ord. passed 5-17-94)

**§ 10-6.11 TUITION ASSISTANCE PROGRAM.**

(A) A full-time employee may apply for payment and reimbursement of designated costs for courses that are taken by the employee on the employee's own time if such course will help prepare the employees-for promotional opportunities within the city service.

(B) In order to be eligible for payment and reimbursement of such costs, without having been required to reimburse the city for costs paid by the city in advance, the employee must complete the course with a minimum grade of "C" or the equivalent thereof.

(C) Costs for the purposes of this section shall include the costs of registration, tuition, books and any required and related fees.

(D) Tuition assistance by the city for the purposes of this section includes payment by the city in advance and the reimbursement by the city to the employee for payment of costs paid by the employee.

(E) In order to be eligible for tuition assistance, an employee must submit a request to their department head prior to registration in the course and that request must be approved in writing by such employee's department head and the City Manager prior to registration.

(F) If the request is approved, the city will pay the costs of the books that participants are required to have for the course.

(G) If the request to take a course is approved, the city will pay the tuition costs so long as the total tuition costs, including books, do not exceed the maximum tuition assistance payment authorized by the City Manager.

(H) Except for payment of book costs, one half of the approved tuition assistance will be paid to the course provider at registration for the course and one half of such amount shall be paid to the employee upon proof to the city that the employee successfully completed the course.

(I) By applying for and accepting the benefits of the city's tuition assistance program, the employee agrees to promptly reimburse the city for all amounts paid to or for the benefit of the employee under this section if the employee fails to successfully complete the course.

(Ord. passed 5-17-94; Am. Ord. passed 8-16-94; Am. Ord. passed 8-16-94; Am. Ord. passed 8-29-09)

**§ 10-6.12 SUPPLEMENTAL RETIREMENT SAVINGS PROGRAM.**

The city provides for payroll deduction for pre-tax voluntary supplemental retirement savings programs through 401-K and 457 plans. Information on these programs is maintained and available in the Human Resource Department.

(Ord. passed 11-17-98)

**§ 10-6.13 CHRISTMAS ALLOWANCE**

Each full time employee with one year of service as of December 1 will be entitled to a Christmas allowance, paid in December of each year in the amount included in the current fiscal year budget as adopted by the City Council.

(Ord. passed 11-17-98; Am. Ord. 1-17-02; Am. Ord. passed 12-19-06; Am. Ord. passed 8-29-09)

**§ 10-6.14 RESERVED.****§ 10-6.15 TRANSFER OF SICK LEAVE.**

Any former employee of an agency or organization which is a member of a Statewide Local Governmental Employee's Retirement System or a Statewide Teachers' and Statewide Employees' Retirement System or other systems under a Department of State Treasurer, or a self-funded Local Government Retirement System, shall be eligible to transfer the balance of sick leave available to the employee at the time of termination with a previous employer.

A written request for transfer of sick leave must be made to the Director of Finance and Personnel. Proper documentation as determined by the City Manager verifying accumulated sick leave hours must be received with the request. The Director of Finance and Personnel will forward the request with documentation to the City Manager for approval. If the request is approved, the transferred sick leave will be added to the employee's balance of available sick leave for use as needed. The amount of transferred sick leave is fully creditable for sick pay if needed and can also be used in terms of calculating retirement with the North Carolina Local Government Retirement System.

(Ord. passed 1-17-02; Am. Ord. passed 1-17-06; Am. Ord. passed 8-29-09; Am. Ord. passed 5-15-18)

## ARTICLE VII: HOLIDAYS AND LEAVES OF ABSENCE

### Section

- 10-7.1 Policy
- 10-7.2 Holidays
- 10-7.3 Holidays: effect on other types of leave
- 10-7.4 Holidays: compensation when work is required
- 10-7.5 Vacation leave: eligibility
- 10-7.6 Vacation leave: accrual rate
- 10-7.7 Vacation leave: maximum accumulation
- 10-7.8 Vacation leave: manner of taking; donation
- 10-7.9 Vacation leave: payment upon separation
- 10-7.10 Vacation leave: payment upon death
- 10-7.11 Sick leave
- 10-7.12 Sick leave: accrual rate and accumulation
- 10-7.13 Sick leave: medical certification
- 10-7.14 Leave pro-rated
- 10-7.15 Leave without pay
- 10-7.16 Leave without pay: retention and continuation of benefits
- 10-7.17 Workers' compensation leave
- 10-7.18 Parental leave
- 10-7.19 Military leave
- 10-7.20 Reinstatement following military service
- 10-7.21 Civil leave
- 10-7.22 Educational leave with pay
- 10-7.23 Family Medical Leave Policy (FMLA)
- 10-7.24 Bereavement leave

### § 10-7.1 POLICY.

The policy of the city is to provide annual leave, sick leave, and holiday leave to all full-time and part-time regular employees, and to provide proportionately equivalent amounts to employees having average work weeks of different schedule hours it being recognized that some employees have more regular scheduled hours in a given year than others.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98)

**§ 10-7.2 HOLIDAYS.**

(A) The following days, and other such days as the City Council may designate, are holidays with full pay for employees and officers of the city:

New Year's Day  
Martin Luther King's Birthday  
Presidents Day  
Good Friday  
Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veteran's Day  
Thanksgiving (2 days)  
Christmas (3 days)

(B) For employees who work in 24 hour/7 days a week shifts (currently fire, police, and treatment plants personnel), holidays will be awarded on January 1 of the current calendar year according to the following schedule:

- (1) 112 hours for treatment plants and police personnel.
- (2) 168 hours for fire personnel.

(C) These holiday hours must be used between January 1 and December 31 of the calendar year awarded. If these hours are not used, the employee will forfeit the hours and no additional compensation will be given. If an employee in one of these departments is terminated, voluntarily or involuntarily, holidays will be prorated accordingly in regards to the date of termination. Any holidays taken in excess will be deducted from the employee's final check. An employee terminating employment who has not taken all hours entitled to him or her, will be paid for the said holidays at straight time in the final check.

(Ord. passed 5-17-94; Am. Ord. passed 1-17-02; Am. Ord. passed 11-20-07; Am. Ord. passed 2-18-14)

**§ 10-7.3 HOLIDAYS: EFFECT ON OTHER TYPES OF LEAVE.**

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

(Ord. passed 5-17-94)

**§ 10-7.4 HOLIDAYS: COMPENSATION WHEN WORK IS REQUIRED.**

Employees required to perform work on New Year’s Day, Good Friday, Independence Day, Labor Day, Thanksgiving Day and Christmas Day will be granted compensatory time off at the rate of one and one half the time actually worked or paid at one and one half times their hourly rate for hours actually worked in addition to the holiday hours they received at the beginning of the calendar. Compensatory time must be requested by the employee and approved by the Department Head and cannot exceed the maximum accumulation allowed for the employee's department.

(Ord. passed 5-17-94; Am. Ord. passed 11-16-99; Am. Ord. passed 1-17-02; Am. Ord. passed 5-16-17) 2005 S-9

**§ 10-7.5 VACATION LEAVE: ELIGIBILITY.**

All full-time employees and regular part-time employees will be eligible for vacation leave based on accrual guidelines set forth in § 10-7.6 of this chapter. Vacation leave cannot be taken in the first six months of employment unless approved in writing by the City Manager.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98; Am. Ord. passed 1-17-02; Am. Ord. passed 8-29-09)

**§ 10-7.6 VACATION LEAVE: ACCRUAL RATE.**

(A) *Credit year defined.* For the purpose of vacation credit, credit year shall mean the period from the anniversary date of employment extending one year to the next anniversary date of employment.

(B) *Rate of accrual.* Each full-time employee shall be credited with vacation leave as follows. Regular part-time employees will earn vacation on a pro-rata basis determined by the average hours they are scheduled to work.

Standard 40 hour week employees:

<u>Years</u>	<u>Hours per year</u>
Less than 2	80 hours
2 – 4	104 hours
5 – 9	120 hours
10 – 14	160 hours
15 – 24	184 hours
25 or more	200 hours

Twenty-four hour shift personnel (currently Fire Department) will earn 1.32 more days than the above referenced schedules. A day of vacation is defined as eight hours.

(C) *Taking leave before crediting.* No employee may take vacation leave which has not already been credited at the time it is taken without the written approval of the City Manager.

(Ord. passed 5-17-94; Am. Ord. passed 7-19-94; Am. Ord. passed 11-17-98; Am. Ord. passed 1-17-02; Am. Ord. passed 10-15-02; Am. Ord. passed 8-29-09; Am. Ord. passed 2-18-14)

#### **§ 10-7.7 VACATION LEAVE: MAXIMUM ACCUMULATION.**

Vacation leave can be carried over from year to year up to a maximum of 240 hours. On December 31st of each year, any unused vacation leave in excess of 240 hours shall be converted to accumulated sick leave so the time is not completely lost.

(Ord. passed 5-17-94; Am. Ord. passed 7-26-94; Am. Ord. passed 11-17-98; Am. Ord. passed 1-17-02)

#### **§ 10-7.8 VACATION LEAVE: MANNER OF TAKING; DONATION.**

(A) *Request for vacation leave.*

(1) Request for vacation leave must be submitted in writing to the employee's immediate supervisor. Approval of vacation leave will be based on the request of the employee and the need for continued operations of the department. Should two or more employees submit requests for the same vacation period, preference is given to the first request received. Employees will be notified in a timely manner of approval or denial of their request.

(2) *Fire Department.* Request for leave including vacation, holiday and compensatory time leave, must be in writing to the employee's immediate supervisor on a departmental leave request form. Approval of leave will be based on the receipt of the request within a minimum of 30 days prior to the requested date, seniority of the employee and the need for continued operations for the department. The request of more than one shift will take priority over a single day's request, regardless of the seniority of the employee. Any employee request for leave after 30 days prior to that said shift date will be on a first come, first serve basis. Employees will be notified in a timely manner of approval or denial of their request.

(B) *Donation of leave time.* An employee may donate accrued annual leave and accrued compensatory time leave to other employees as follows. The prior written approval of the City Manager is required for all donations of leave.

(1) Donated leave shall be calculated on a "dollar for dollar" basis.

(2) No employee shall be forced or coerced to contribute any accrued annual or compensatory leave to any other city employee.

(3) The contributing employee shall release all claims to donated leave, upon approval.



(4) Donated leave can only be rescinded by the employee donating the leave if the receiving employee does not use such leave within 30 days of its approval.

(5) The donating employee shall not expect nor shall receive any compensation or gratuity from the receiving employee.

(6) Donated compensatory leave can only be used for an employee's personal illness or for the illness of immediate family members. For this purpose immediate family member shall be defined as spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren aunt, uncle, nephew, niece plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

(7) Donated annual leave can be used for an employee's personal illness or for the illness of immediate family members or for regular annual leave by the employee receiving the donated time.

(8) Requests to donate accrued annual or compensatory leave will only be considered when submitted on a form approved by the City Manager.

(Ord. passed 5-17-94; Am. Ord. passed 10- -98; Am. Ord. passed 11-17-98; Am. Ord. passed 2-21-06; Am. Ord. passed 8-29-09; Am. Ord. passed 3-22-11; Am. Ord. passed 2-18-14)

#### **§ 10-7.9 VACATION LEAVE: PAYMENT UPON SEPARATION.**

An employee who has successfully completed the applicable probationary period will normally be paid for accumulated annual leave upon separation not to exceed the maximum as stated in § 10-7.7, provided notice is given to the supervisor at least two weeks in advance of the effective date of resignation. **Any employee failing to give the notice required by this section shall forfeit payment for accumulated leave.** The notice requirement may be waived in writing 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 annual leave subject to the maximums established in § 10-7.7 of this article.

(Ord. passed 5-17-94; Am. Ord. passed 1-13-99; Am. Ord. passed 8-29-09)

#### **§ 10-7.10 VACATION LEAVE: PAYMENT UPON DEATH.**

The estate of an employee who dies while employed by the city shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximums established in § 10-7.7 of this article.

(Ord. passed 5-17-94)

#### **§ 10-7.11 SICK LEAVE.**

(A) Sick leave with pay is not a right which an employee may demand, but a privilege granted for the benefit of an employee when sick.

(B) Sick leave may be granted to an employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others.

(C) Sick leave may be used when an employee must care for a member of his or her immediate family who is ill. Sick leave may also be used for death in the employee's immediate family, but may not exceed three days for any one occurrence. Additional leave time required for such occurrence may be charged to compensatory leave or annual leave. Sick leave may also be used to supplement Worker's Compensation Disability Leave.

(D) "Immediate family" shall be defined as spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, aunt, uncle, nephew, niece plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

(E) Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave or notification shall be made immediately at the beginning of the scheduled workday. (Ord. passed 5-17-94; Am. Ord. passed 1-13-99; Am. Ord. passed 1-17-02; Am. Ord. passed 8-29-09)

#### **§ 10-7.12 SICK LEAVE: ACCRUAL RATE AND ACCUMULATION.**

(A) Each full-time employee, except fire shift personnel, shall earn sick leave at the rate of 3.70 hours per two-week pay period or as otherwise provided for by the City Council. Fire shift personnel shall earn sick leave at the rate of 4.89 hours per two-week pay period or as otherwise provided for by the City Council. Sick leave for full-time and part-time regular employees working other than the basic work schedule shall be pro-rated 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.

(B) 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 and/or otherwise provided for by the City Council including any formally adopted employment agreement.

(Ord. passed 5-17-94; Am. Ord. passed 1-17-02; Am. Ord. passed 2-18-14)

#### **§ 10-7.13 SICK LEAVE: MEDICAL CERTIFICATION.**

(A) The employee's supervisor or department head may require a physician's certificate stating the nature of the employee or immediate family member's illness and the employee's capacity to resume duties, for each occasion on which an employee uses sick leave, leave without pay 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 shall be no abuse of leave privileges.

(B) 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.

(Ord. passed 5-17-94; Am. Ord. passed 1-13-99; Am. Ord. passed 1-17-02; Am. Ord. passed 8-29-09)

**§ 10-7.14 LEAVE PRO-RATED.**

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

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

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

(C) The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned.

(Ord. passed 5-17-94)

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**§ 10-7.15 LEAVE WITHOUT PAY.**

(A) A full or part-time regular employee may be granted a leave of absence without pay for a period of up to 12 months by the City Manager. The leave shall be used for reasons of personal disability after compensatory, sick, and annual leave have been exhausted, or for 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.

(B) The employee shall apply in writing to the supervisor for leave. 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, every effort will be made to return the employee to the same position held at the time leave was granted or to one of like classification, seniority and pay. Should there be no positions available for which the employee is qualified, the employee will be offered the first available position for which qualified providing such position becomes available within one year following the end of the leave without 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.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98; Am. Ord. passed 8-29-09)

**§ 10-7.16 LEAVE WITHOUT PAY: RETENTION AND CONTINUATION OF BENEFITS.**

An employee shall be able to retain all unused compensatory leave, annual leave and sick leave while on leave without pay, unless the leave is for reasons of personal illness or injury. An employee ceases to earn leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the city's group insurance plans at his or her own expense, subject to the provisions of the coverage under the group health and life insurance contracts and to any regulation adopted by the City Council and the regulations of the insurance carrier.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98; Am. Ord. passed 8-29-09)

**§ 10-7.17 WORKERS' COMPENSATION LEAVE.**

An employee absent from duty because of sickness or disability covered by the North Carolina Workers' Compensation Act may elect to use accrued sick leave, vacation or compensatory time during the waiting period. An employee on approved workers' compensation leave will continue to accrue vacation and sick leave. The city will maintain coverage on group insurance. Dependent coverage, if applicable, will be maintained by the employee.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98)

**§ 10-7.18 PARENTAL LEAVE.**

(A) Parental leave may be granted to an employee for a period of up to three months (12 weeks) for pregnancy, miscarriage, abortion, childbirth, recovery, or adoption. Employees may be granted an extension by the City Manager when medically necessary. This leave would be without pay unless the employee elected to use sick, compensatory or annual leave. A parental leave request, including the tentative duration of the leave requested, must be submitted to the department head in advance of the leave. Request for parental leave shall be within the guidelines of the Family Medical Leave Act Policy, § 10-7.23.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98; Am. Ord. passed 1-17-02; Am. Ord. passed 8-29-09)

**§ 10-7.19 MILITARY LEAVE.**

Regular employees who are members of an Armed Forces Reserve organization or National Guard shall be granted ten workdays per year for military leave without pay. On rare occasions due to training being scheduled on a federal fiscal year basis, an employee may be required to attend two periods of training in one calendar year. For this purpose only, an employee shall be granted an additional ten days of military leave during the same calendar year without pay. Provided that, if the compensation received while on military leave is less than the salary that would have been earned during this same period as a city employee, the employee shall receive partial compensation equal to the difference the base salary earned during this same period as a city employee. The effect will be to maintain the employee's salary at the normal level during this period. If such duty is required beyond this ten workdays, the employee shall be eligible to take accumulated leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave without pay or with partial 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. Employees who are eligible for military leave have all job rights specified by the Vietnam Veterans Readjustment Act.

(Ord. passed 5-17-94; Am. Ord. passed 8-29-09)

**§ 10-7.20 REINSTATEMENT FOLLOWING MILITARY SERVICE.**

An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee:

(A) Applies for reinstatement within 90 days after the release from military service; and

(B) Is able to perform the duties of the former position or similar position; or

(C) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of military service, but is able to perform the duties of another position in the service of the city. In this case the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

(Ord. passed 5-17-94)

**§ 10-7.21 CIVIL LEAVE.**

(A) 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.

(B) Should a person be scheduled for civil leave on a day when he or she is on a second or third shift or a night shift schedule, he or she does not have to report to work for the shift, when the majority of scheduled work hours occur on the same day as jury duty.

(Ord. passed 5-17-94)

**§ 10-7.22 EDUCATIONAL LEAVE WITH PAY.**

(A) A leave of absence at full or part pay for a period not to exceed 60 working days may be granted to an employee upon the recommendation of the supervising department head and with the written approval of the City Manager to permit an employee to take courses of study which will better equip the employee to perform such employee's duties.

(B) Educational leave at full or part pay for a period not to exceed nine months may be granted to any employee upon the recommendation of the supervising department head and with the written approval of the City Manager and the City Council.

(C) An employee granted educational leave with pay shall agree to return to the service of the city upon completion of such employee's training and remain in the employ of the city for a period equal to twice the educational leave which such employee received or reimburse the city for all compensation received while on educational leave.

(Ord. passed 5-17-94; Am. Ord. passed 8-29-09)

**§ 10-7.23 FAMILY MEDICAL LEAVE POLICY (FMLA).**

(A) Employees who have worked for the city for at least 12 months and at least 1,250 hours during the prior 12-month period may take up to 12 weeks of unpaid leave (FMLA leave) for the following reasons:

(1) Both birth or care of a child of the employee;

(2) Placement of a child into the employee's family by adoption or by a foster care arrangement;

(3) Care of the employee's spouse, child or parent who has a serious health condition; or

(4) Inability of the employee to perform the functions of the employee's position due to a serious health condition.

(B) Any employee using sick leave, vacation leave or compensatory time for any FMLA purpose will have that paid leave counted toward their 12 weeks of FMLA leave.

(C) Any FMLA leave taken by an employee during the preceding 12-month period will be used to determine the amount of available leave pursuant to the Family and Medical Leave Act.

(D) The right to family leave for the birth or placement of a child in an employee's family may only be taken within the 12 months after the date of the birth or placement of the child. In the case of unpaid leave for the birth or placement of a child, intermittent leave or working a reduced number of hours is not permitted, unless both the employee and the City Manager agree in writing. If both spouses are employed by the city, the combined leave shall not exceed 12 weeks.

(E) For purposes of this policy, a serious health condition means an illness, injury, impairment or physical or mental condition that involves:

(1) Any period of incapacity or treatment in connection with or consequent to in-patient care in hospital, hospice or residential medical care facility;

(2) Any period of incapacity requiring absence from work or other regular daily activities for more than three calendar days that also involves continuous treatment by or under the supervision of a health care provider;

(3) Continuous treatment by or under the supervision of a healthcare provider for a chronic long-term health condition that is incurable or so serious that if not treated would result in a period of incapacity of more than three calendar days; or

(4) Prenatal care.

(F) In the case of unpaid leave for serious health conditions, the leave may be taken intermittently or on a reduced hours basis only if such leave is medically necessary. Where an employee requests intermittent leave or leave on a reduced hours basis due to a family member's or the employee's own serious health condition, the City Manager has the option, in their sole discretion, to require the employee to transfer to a temporary alternative job for which the employee is qualified and which better accommodates the intermittent leave or reduced hours leave than the employee's regular job. The temporary position will have equivalent pay and benefits as the employee's regular job.



(G) In order to be paid employees are required to use their available sick, vacation or compensatory time during the 12-week family leave period. That portion of the family leave of absence which is vacation time, compensatory time or sick time will be in accordance with city pay policies. The employee will be notified in writing that their vacation, sick and/or compensatory time will be counted towards the 12 weeks of family leave. If written notice is not given to the employee by the date of expiration of the leave, the leave will not be counted towards the employee's available 12 weeks of family leave.

(H) When the necessity of leave is foreseeable due to the expected birth or placement of a child, the employee must provide the city with at least 30 days notice of the employee's intention to take leave. If the date of birth or placement of a child requires the employee's leave to begin in less than 30 days, the employee must provide notice as soon as practical. Where the necessity of leave is due to a family member's or employee's own serious health condition and is foreseeable based on a planned medical treatment, the employee must:

(1) Give at least 30 days notice, or soon as practicable, if treatment starts in less than 30 days; and

(2) Make a reasonable effort to schedule the treatment so as not to unduly disrupt the operation of the city, subject to the approval of the health care provider.

(I) Where the need of leave is unforeseeable, the employee must give notice as soon as practical. Any leave request based on a family members or employee's own serious health condition must be supported by certification from a healthcare provider. The employee must provide a copy of the certification to the city in a timely manner. Certification from the healthcare provider must contain the following:

(1) The date the serious health condition began;

(2) The possible duration of the condition; and

(3) The appropriate medical facts regarding the condition.

(J) If the leave is based on the care of a spouse, child or parent, a statement that the employee is needed to provide the care and an estimate of the amount of time that need will continue;

(K) If the leave is based on the employee's own serious health condition, a statement that the employee is unable to perform the functions of his/her job; and

(L) In the case of intermittent leave or leave on a reduced hours basis for planned medical treatment, the date the treatment is expected to be given and the duration of the treatment.

(M) During family leave of absence, the city will continue to pay the health insurance premiums for the employee; the employee must continue to pay his/her share of the dependent premium. Failure of the employee to pay his/her share of the health insurance premium may result in loss of dependent coverage. If the employee does not return to work after the expiration of the leave, the employee will be required to reimburse the city for payment of health insurance premiums during family leave, unless

the employee does not return because of the presence of a serious health condition which prevents the employee from performing his or her job or circumstances beyond the employee's control.

(N) During unpaid leave, no benefits will be accrued.

(O) The city may require an employee on FMLA to report periodically on his/her status and the intention of the employee to return to work. Also, periodic recertification of the medical condition may be required. An employee taking family leave due to the employee's serious health condition will be required to provide certification that the employee is able to resume work prior to returning to work.

(P) Employees who return to work from family leave of absence within or on the business day following the expiration of the 12 weeks are entitled to return to their job or an equivalent position without loss of pay or benefits.

(Q) In the event the employee cannot return to work at the end of the 12 weeks and the employee has exhausted all paid leave, the employee may, at that time, request a leave without pay. The request will be reviewed by the City Manager and the employee will be notified as soon as practical if the request is approved or denied.

(R) Applications for family leave of absence must be submitted in writing and signed by the employee's immediate supervisor or department head. Applications should be submitted at least 30 days before the leave is to commence or as soon as possible if 30 days notice is not possible. Appropriate forms must be submitted to the Human Resource Department to initiate family leave or return to work.

(Ord. passed 10- -98; Am. Ord. passed 1-17-02; Am. Ord. passed 8-29-09)

#### **§ 10-7.24 BEREAVEMENT LEAVE.**

(A) In the event of a death in an employee's immediate family, the City Manager or designee shall provide up to three days bereavement leave. In order to receive bereavement pay, the employee must attend the funeral of the relative.

(B) "Immediate family" shall be defined as spouse, mother, father, guardian, children, sister, brother, grandparents, grandchildren, aunt, uncle, nephew, niece plus the various combinations of half, step, in-law and adopted relationships that can be derived from those named.

(Ord. passed 10- -98; Am. Ord. passed 8-29-09; Am. Ord. passed 2-18-14)

## ARTICLE VIII. SEPARATION AND REINSTATEMENT

### Section

- 10-8.1 Types of separation
- 10-8.2 Resignation
- 10-8.3 Reduction in force
- 10-8.4 Disability
- 10-8.5 Voluntary retirement
- 10-8.6 Death
- 10-8.7 Dismissal
- 10-8.8 Reinstatement
- 10-8.9 Rehiring

### § 10-8.1 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.

(Ord. passed 5-17-94)

### § 10-8.2 RESIGNATION.

(A) An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two weeks. Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notice is waived upon recommendation of the department head and written approval by the City Manager.

(B) 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 the notice of resignation with a physician's certification or comparable documentation.

(Ord. passed 5-17-94; Am. Ord. passed 8-29-09)

### § 10-8.3 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 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.

(Ord. passed 5-17-94)

#### **§ 10-8.4 DISABILITY.**

(A) An employee who cannot perform the required duties because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the city. In all cases, 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. If the disability is a qualified disability covered by the Americans with Disability Act (ADA), and the employee cannot perform the essential functions of their regular position, every effort will be made by the city to provide reasonable accommodations or to place the employee in an alternate position, if available for which the employee is qualified and can perform the essential job functions.

(Ord. passed 5-17-94; Am. Ord. passed 11-17-98; Am. Ord. passed 8-29-09)

#### **§ 10-8.5 VOLUNTARY 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.

(Ord. passed 5-17-94)

#### **§ 10-8.6 DEATH.**

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

(Ord. passed 5-17-94)

#### **§ 10-8.7 DISMISSAL.**

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

(Ord. passed 5-17-94)

#### **§ 10-8.8 REINSTATEMENT.**

An employee who is separated because of reduction in force may be reinstated within one year of the date of separation, upon recommendation of the department head and written approval of the City Manager. An employee who is reinstated in this manner shall be reaccredited with his or her previously accrued sick leave (Ord. passed 5-17-94; Am. Ord. passed 8-29-09)

**§ 10-8.9 REHIRING.**

An employee who resigns while in good standing may be rehired with the approval of the City Manager and recommendation of the department head, and shall be regarded as a new employee (unless otherwise provided for by the City Manager), subject to all of the provisions of rules and regulations of this chapter. 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.

(Ord. passed 5-17-94; Am. Ord. passed 10- -98; Am. Ord. passed 2-18-14)



**ARTICLE IX: UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL  
PERSONAL CONDUCT**

Section

- 10-9.1 Disciplinary action for unsatisfactory job performance
- 10-9.2 Unsatisfactory job performance defined
- 10-9.3 Communication and warning procedures preceding disciplinary action for unsatisfactory job performance
- 10-9.4 Disciplinary action for detrimental personal conduct
- 10-9.5 Detrimental personal conduct defined
- 10-9.6 Pre-disciplinary conference
- 10-9.7 Nondisciplinary suspension
- 10-9.8 Substance abuse policy

**§ 10-9.1 DISCIPLINARY ACTION FOR UNSATISFACTORY JOB PERFORMANCE.**

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or dismissal must be approved in writing by the City Manager prior to giving final notice to the employee. (Ord. passed 5-17-94; Am. Ord. passed 8-29-09)

**§ 10-9.2 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:

- (A) Demonstrated inefficiency, negligence, or incompetence in the performance of duties.
- (B) Careless, negligent or improper use of city property or equipment;
- (C) Discourteous treatment of the public or other employees;
- (D) Absence without approved leave;
- (E) Repeated improper use of leave privileges;

(F) Failure to acquire proper training, certifications or special permits required for the position within a specified time frame;

(G) Habitual pattern of failure to report for duty at the assigned time and place;

(H) Failure to meet work standards over a period of time;

(I) Physical or mental incapacity to perform duties;

(J) The communication of a threat to another person threatening to physically injure the person or property of another if the threat is made in a manner and under such circumstances that a reasonable person would believe that the threat is likely to be carried out and the person threatened believes that the threat will be carried out.

(K) Failure to complete work within time frames established in work plan or work standards.

(Ord. passed 5-17-94; Am. Ord. passed 6-20-96; Am. Ord. passed 11-17-98)

**§ 10-9.3 COMMUNICATION AND WARNING PROCEDURES PRECEDING DISCIPLINARY ACTION FOR UNSATISFACTORY JOB PERFORMANCE.**

(A) 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 and areas for immediate improvement. A notation of these counseling sessions shall be placed in the employee's personnel file. An employee whose job performance is unsatisfactory over a period of time should receive at least two written warnings from the supervisor before disciplinary action resulting in dismissal is taken by the City Manager unless the violation involves detrimental personal conduct.

(B) The warning and counseling procedures will consist of three steps:

- (1) Step 1. Verbal Warning
- (2) Step 2. Written Warning
- (3) Step 3. Written Warning - Pre-disciplinary Conference.

(C) Verbal warning is a warning given to the employee with a notation of the "verbal warning" being entered in the employee's personnel file.

(D) Written warnings will be given to the employee and a copy placed in the employee's personnel file. The employee shall sign an acceptance of this warning, and if the employee refuses to sign the supervisor will have a witness sign an acknowledgment that the employee refused to sign.

(Ord. passed 5-17-94; Am. Ord. passed 6-20-96; Am. Ord. passed 11-17-98; Am. Ord. passed 8-29-09; Am. Ord. passed 3-19-13)



**§ 10-9.4 DISCIPLINARY ACTION FOR DETRIMENTAL PERSONAL CONDUCT.**

(A) With the written approval of the City Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to city service in order to avoid undue disruption of work; to protect the safety of persons or property; or for other serious reasons.

(B) A written copy of the disciplinary action will be personally delivered to the employee or shall be mailed to the employee by depositing the copy in an envelope in the U.S. mail, certified mail, return receipt requested, postage prepaid, and addressed to the employee at the employee's current local address as it appears in the employee's personnel file.

(Ord. passed 5-17-94; Am. Ord. passed 6-20-96; Am. Ord. passed 8-29-09)

**§ 10-9.5 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 the government may be or have been violated. Examples of detrimental personal conduct include, but are not limited to, the following:

(A) Fraud;

(B) Conviction of a felony or the entry of a plea of nolo contendere thereto;

(C) Falsification of records for personal profit, to grant special privileges, or to obtain employment;

(D) Willful misuse of or gross negligence in the handling of city funds;

(E) Willful or wanton damage or destruction to city property;

(F) Willful or wanton acts that endanger the lives and property of others;

(G) Possession of unauthorized firearms or other lethal weapons on the job or on or in city property;

(H) Brutality in the performance of duties;

(I) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty.

Prescribed medication may be taken within the limits set by a physician as long as medically necessary;

(J) Engaging in incompatible employment or servicing a conflicting interest;

(K) Conviction of a misdemeanor or the entry of a plea of nolo contendere thereto when such conviction or plea adversely affects the performance of those duties regularly assigned to such employee.

(L) Insubordination or refusal to follow instructions or to perform designated work;

(M) Use of city equipment, vehicles, machines or tools on or off the job without proper training or authorization;

(N) Failure to report work injuries;

(O) Disregard of safety rules or of common safety and sanitary rules;

(P) Refusal to wear prescribed and furnished safety equipment;

(Q) Interfering with the work performance of another employee or engaging in or participating in any interruption of work;

(R) Request or acceptance of gifts in exchange for favors or influence;

(S) Engaging in political activity prohibited by this chapter;

(T) Unauthorized removal of any city property, records or materials from any premises owned, leased or under the control of the city; or

(Ord. passed 5-17-94; Am. Ord. passed 6-20-96; Am. Ord. passed 6-16-98; Am. Ord. passed 11-17-98; Am. Ord. passed 8-29-09)

#### **§ 10-9.6 PRE-DISCIPLINARY CONFERENCE.**

(A) Before any disciplinary action is taken, whether for failure in personal conduct or failure in performance of duties, the Director of Finance and Personnel shall provide the employee with a written notice of proposed disciplinary action, which will include the nature of the proposed action, its recommended effective date, and a time for a pre-disciplinary conference.

(B) At this conference, the employee may be represented by private legal counsel. The city and the employee may present relevant witnesses and evidence. The employee may present any response to the proposed disciplinary action to the City Manager. The City Manager will consider the employee's response, if any, to the proposed disciplinary action, and will, within three working days following the pre-disciplinary conference, notify the employee in writing of their final decision in the disciplinary

procedure. The notice of the final disciplinary action shall contain a statement of the reasons for the action and the employee's appeal rights.

(C) The decision of the City Manager in all disciplinary proceedings shall be final.  
(Ord. passed 5-17-94; Am. Ord. passed 6-20-96; Am. Ord. passed 11-17-98; Am. Ord. passed 8-29-09)

**§ 10-9.7 NONDISCIPLINARY SUSPENSION.**

(A) During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, the department head with the written approval of the City Manager may suspend the employee for the duration of the proceedings as a non-disciplinary action, when suspension would be in the best interest of the city. In such a case, a pre-disciplinary conference is not required until a disciplinary decision is made. In such cases, the City Manager may:

(1) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or

(2) Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties.

(B) If the nondisciplinary suspension is terminated with full reinstatement of the employee, the City Manager may authorize full or partial recovery of pay and benefits for the period of the suspension. If the employee is reinstated following the suspension, such employee shall not lose any benefits except pay to which otherwise employee would have been entitled had the suspension not occurred.

(C) If the employee is to be terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued annual leave and sick leave shall be maintained during the period of suspension.  
(Ord. passed 5-17-94; Am. Ord. passed 11-17-98; Am Ord. passed 8-29-09)

**§ 10-9.8 SUBSTANCE ABUSE POLICY.**

The city has established policies and procedures related to employee substance abuse in order to insure the safety and well-being of citizens and employees, and to comply with any state, federal, or other laws and regulations. A copy of the substance abuse policy is in file in the Human Resource Department.

(Ord. passed 5-17-94; Am. Ord. passed 8-29-09)



## **ARTICLE X: GRIEVANCE PROCEDURE**

Secure

10-10.1 Policy

10-10.2 Grievance defined; disciplinary action excepted

10-10.3 Purposes of the grievance procedure

10-10.4 Procedure

10-10.5 Grievance and adverse action appeal procedure for discrimination

10-10.6 Grievances and adverse action appeal procedure for discrimination when the claim or complaint is against the City Manager

### **§ 10-10.1 POLICY.**

It is the policy of the city to encourage employees to bring to the attention of management their complaints about work-related situations. Employees may present their complaints through the grievance procedure set forth in § 10-10.4. The city will attempt to fairly and promptly resolve complaints and grievances.

(Ord. passed 5-17-94; Am. Ord. passed 6-20-96; Am. Ord. passed 11-17-98)

### **§ 10-10.2 GRIEVANCE DEFINED; DISCIPLINARY ACTION EXCEPTED.**

(A) A grievance is a claim or complaint arising out of an employee's expressed feeling of dissatisfaction with the way or manner in which the employee has been treated by such employee's superiors or other employees.

(B) Matters arising out of or related to disciplinary actions are not subject to the grievance procedure but shall be heard before the City Manager as provided for by § 10-9.6 of the City Code.

(Ord. passed 5-17-94; Am. Ord. passed 6-20-96; Am. Ord. passed 11-17-98)

### **§ 10-10.3 PURPOSES OF THE GRIEVANCE PROCEDURE.**

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

(A) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;

(B) Encouraging employees to express themselves about the conditions of work which affect them as employees;

(C) Promoting better understanding of policies, practices, and procedures which affect employees;

(D) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and

(E) Increasing the sense of responsibility exercised by supervisors in dealing with their employees.

(Ord. passed 5-17-94)

#### **§ 10-10.4 PROCEDURE.**

(A) Whenever an employee believes that he or she has a work-related problem, the employee should bring the matter to the attention of his or her immediate supervisor. The supervisor has the responsibility to investigate the complaint, to attempt to resolve the complaint and to communicate a decision to the employee within a reasonable period of time. If the employee's complaint concerns the immediate supervisor the employee may first discuss the problem with the appropriate department head in order to avoid an awkward situation. If the employee's complaint concerns the department head the employee may first discuss the problem with the City Manager in order to avoid an awkward situation.

(B) If the employee is not satisfied with the decision of the supervisor, he or she may then request to discuss the complaint with the department head or superintendent of their department. The supervisor will provide, in writing, the employee's complaint, the facts of the investigation and his decision for review by the department head or superintendent. The department head will discuss the complaint with the employee and supervisor and will review all facts relating to the complaint. The department head will make a decision concerning the complaint within five working days.

(C) If the employee is not satisfied with the decision of the superintendent or department head, he or she may then request that his or her complaint be heard by the City Manager. The City Manager will be provided with all written materials relating to the employee's complaint and will discuss the complaint with the employee. The City Manager will make a decision concerning the complaint within five working days.

(D) The decision of the City Manager shall be the final decision of the city.

(E) Whenever two or more employees have a common or similar complaint, the city will select one or more of them to represent the group. The final decision on the complaint will be binding on all members of the group.

(Ord. passed 5-17-94; Am. Ord. passed 6-20-96; Am. Ord. passed 11-17-98, Am. Ord. passed 8-29-09)

**§ 10-10.5 GRIEVANCE AND ADVERSE ACTION APPEAL PROCEDURE FOR DISCRIMINATION.**

Any applicant for city employment, city employee, or former city employee, who has reason to believe that any employment action, including promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment was based on age, sex, race, color, national origin, religion, creed, political affiliation, or non-job related handicap, has the right to appeal such action using the grievance procedure outlined in this article if he or she desires. While such persons are encouraged to use the grievance procedure, they shall have the right to appeal directly to the City Manager. An employee or applicant should appeal an alleged act of discrimination within 30 calendar days of the alleged discriminatory action.

(Ord. passed 5-17-94)

**§ 10-10.6 GRIEVANCES AND ADVERSE ACTION APPEAL PROCEDURE FOR DISCRIMINATION WHEN THE CLAIM OR COMPLAINT IS AGAINST THE CITY MANAGER.**

When an employee or group of employees has a grievance under § 10-10.2 against the City Manager or when an employee, group of employees, any applicant for city employment or former city employee claims to have a grievance under § 10-10.5 against the City Manager, such employee, employees, applicants for city employment, former employee or complainant shall file such complaint or grievance with the City Clerk who shall promptly cause the City Council to be notified of such complaint or grievance.

(Ord. passed 5-17-94)





## **ARTICLE XI: PERSONNEL RECORDS AND REPORTS**

### Section

- 10-11.1 Public information
- 10-11.2 Access to confidential records
- 10-11.3 Personnel actions
- 10-11.4 Records of former employees
- 10-11.5 Remedies of employees objecting to material in file
- 10-11.6 Penalties for permitting access to confidential records
- 10-11.7 Examining and/or copying confidential material without authorization
- 10-11.8 Destruction of records regulated

### **§ 10-11.1 PUBLIC INFORMATION.**

In compliance with G.S. § 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; 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. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, when making a request in writing and subject to the rules and regulations for the safekeeping of public records as the city may adopt.

(Ord. passed 5-17-94; Am. Ord. passed 8-29-09)

### **§ 10-11.2 ACCESS TO CONFIDENTIAL RECORDS.**

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

(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 all material in the employee's personnel file.

(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 City Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.

(6) An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.

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

(B) The City Council shall establish procedures for all personnel files containing information other than the public information mentioned above whereby an employee who objects to material may seek to have the material removed from the file or may place in the file a statement relating to the material.

(Ord. passed 5-17-94)

### **§ 10-11.3 PERSONNEL ACTIONS.**

The City Manager or designee will prescribe necessary forms and reports for all personnel actions. The Personnel Officer will retain records necessary for the proper administration of the personnel system.

(Ord. passed 5-17-94)

### **§ 10-11.4 RECORDS OF FORMER EMPLOYEES.**

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

(Ord. passed 5-17-94)

**§ 10-11.5 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.

(Ord. passed 5-17-94)

**§ 10-11.6 PENALTIES FOR PERMITTING ACCESS TO CONFIDENTIAL RECORDS.**

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

(Ord. passed 5-17-94)

**§ 10-11.7 EXAMINING AND/OR COPYING CONFIDENTIAL MATERIAL WITHOUT AUTHORIZATION.**

G.S. § 160A-168 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.

(Ord. passed 5-17-94)

**§ 10-11.8 DESTRUCTION OF RECORDS REGULATED.**

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. § 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 G.S. § 132-3.



## ARTICLE XII: SAFETY LOSS CONTROL

Section

### *Division 1 Responsibilities*

- 10-12.1 Mayor and City Council
- 10-12.2 City Manager
- 10-12.3 Safety Coordinator
- 10-12.4 Safety and Loss Control Committee
- 10-12.5 Membership and vacancies
- 10-12.6 Absence and attendance
- 10-12.7 Rules of conduct for members
- 10-12.8 Organization rules, meetings and records
- 10-12.9 Subcommittees
- 10-12.10 Powers and duties of Safety and Loss Control Committee
- 10-12.11 Department heads
- 10-12.12 Supervisors
- 10-12.13 Employees

### *Division 2 Operations*

- 10-12.14 Monthly safety training program – new employee orientation
- 10-12.15 Incident investigation
- 10-12.16 Self inspections
- 10-12.17 Safety rules and procedures

***Statutory reference:***

*see G.S. § 160A-174*

### ***DIVISION 1 RESPONSIBILITIES***

#### **§ 10-12.1 MAYOR AND CITY COUNCIL.**

The Mayor and City Council support a citywide safety program through personnel policies and budgetary considerations.

(Ord. passed 2-18-03)

**§ 10-12.2 CITY MANAGER.**

(A) The City Manager or designee through the Safety and Loss Control Committee, is responsible for overall management and administration of the comprehensive safety program.

(B) The City Manager shall appoint the Safety Coordinator and the Deputy Safety Coordinator. Both supervisory employees and non-supervisory employees are eligible for appointment.  
(Ord. passed 2-18-03; Am. Ord. passed 8-29-09)

**§ 10-12.3 SAFETY COORDINATOR.**

The Safety Coordinator is directly responsible for the implementation and operation of the safety and loss control program which will include training, accident and insurance follow-up, and vehicle and building safety. The Safety Coordinator coordinates and evaluates departmental programs to ensure that the overall objectives of the city's general safety program are achieved. The Safety Coordinator will represent the City Manager in all safety matters and can stop a work operation temporarily when serious injury or property damage is possible. The Safety Coordinator will serve on the Safety and Loss Control Committee and shall provide staff reports on all incidents pertinent to the work of the committee. The Safety Coordinator shall be responsible for making direct contact with each department head on a regular basis in an effort to keep them informed on the activities of the committee as it relates to their department. The Deputy Safety Coordinator shall assist the Safety Coordinator, serve on the Safety and Loss Control committee and shall provide staff support to the committee as requested by the Safety Coordinator. The Deputy Safety Coordinator can stop a work operation temporarily when serious injury or property damage is possible. The Deputy Safety Coordinator shall assume all the responsibilities of the Safety Coordinator in the absence of the Safety Coordinator.  
(Ord. passed 2-18-03)

**§ 10-12.4 SAFETY AND LOSS CONTROL COMMITTEE.**

There is hereby established a committee to function as an advisory body to develop and recommend to the City Manager matters of policy and procedure affecting administration of the city safety and loss control program. This committee shall be known as the Safety and Loss Control Committee of the City of Eden, hereinafter referred to as "the committee." This committee shall provide the necessary leadership in implementing the overall safety program. It shall be the responsibility of this committee to review all recommendations concerning the safety program. The members shall report to the committee during regular meetings regarding their department/division safety activities and shall discuss with the committee any new safety concerns. The members shall report to their department head after each meeting of the committee in an effort to keep them informed about the committee's activities.  
(Ord. passed 2-18-03)

**§ 10-12.5 MEMBERSHIP AND VACANCIES.**

(A) The Committee shall consist of 18 members, all appointed by the City Manager and shall be composed of the Safety Coordinator, the Deputy Safety Coordinator, and 16 additional employees of the city. Each of the following 14 departments/divisions shall have one employee on the committee: Fire, Parks/Recreation, Facility Maintenance and Grounds, Solid Waste, Streets, Fleet Maintenance, Engineering, Finance/Billing & Collections/Human Resources/Administration, Water Treatment Plant, Wastewater Treatment Plant, Collection & Distribution, Environmental Services, Business Development/Tourism, and Planning & Inspections. The Police Department shall have two employees on the committee.

(B) The members shall be appointed for a period of two years, with the exception of the initial 16 members. The member terms will rotate so that only half of the members are new each year. Vacancies occurring for reasons other than expiration of term shall be filled as they occur for the period of the unexpired term. If an employee member is no longer employed by the city or the Safety Coordinator or the Deputy Safety Coordinator ceases to serve in their capacity, this action shall constitute a resignation from the committee effective upon the date a replacement is appointed. No employee shall be allowed to serve more than two consecutive terms with the exception of the Safety Coordinator or the Deputy Safety Coordinator. Any exceptions will have to be approved by the City Manager. The employee representatives, the Deputy Safety Coordinator and Safety Coordinator serve at the pleasure of the City Manager.

(C) The Committee shall consist of both supervisory and non-supervisory employees. The goal is to have a well-rounded committee that includes both supervisory as well as non-supervisory employees working hand in hand towards a common goal and purpose.

(Ord. passed 2-18-03; Am. Ord. passed 8-29-09; Am. Ord. passed 6-21-11; Am. Ord. passed 6-17-14)

**§ 10-12.6 ABSENCE AND ATTENDANCE.**

Regular attendance at all committee and subcommittee meetings is expected. It shall be the duty of all Safety and Loss Control Committee members to inform the Safety Coordinator of any anticipated absence and notification shall be immediately after receipt of the agenda. The Department Head or Division Supervisor will be responsible for sending another employee in the absent member's place. An employee member who misses three consecutive regular meetings or 30% or more of the regular meetings in a calendar year loses his or her status as a member of the committee and will be subjected to disciplinary action. Absences due to sickness, death or other emergencies of like nature shall be regarded as excused absences and shall not affect the member's status on the committee. In the event of a long illness or other such case for prolonged absence the member may be replaced.

(Ord. passed 2-18-03; Am. Ord. passed 6-21-11)

**§ 10-12.7 RULES OF CONDUCT FOR MEMBERS.**

Members of the Safety and Loss Control Committee may be removed for cause by the City Manager, including violation of the rules stated below.

(A) Faithful attendance at all committee meetings and conscientious performance of the duties required of committee members shall be considered a prerequisite of continuing membership on the committee.

(B) Each member of the Committee shall be familiar with all statutes, laws, ordinances and rules of procedure relating to the Committee as time and circumstances permit.

(C) It shall be the duty of every committee member to avoid even the appearance of a conflict of interest. Therefore, no member shall vote on, discuss, debate, advocate, influence, or otherwise participate before the committee in any matter that would substantially affect, directly or indirectly, his or her personal interests or the financial interests of a member of his or her household. This prohibition includes formal or informal consideration of the matter by the committee, whether conducted in public or private. This provision does not prohibit participation in advisory decisions in which the personal interest is so insignificant or remote that it is unlikely to affect the member's official action in any way. In applying this rule the following procedure shall govern:

(1) A member who has a conflict of interest shall disqualify himself or herself and withdraw from participation in the matter. The member shall not sit with the Committee during the consideration and discussion of that matter;

(2) Withdrawal from participation in any matter is necessary only in those specific cases in which a conflict arises. There shall be no attempt to exclude entire categories of consideration because of the department/division with which a member is associated;

(3) Any committee member may seek an opinion from the Staff/City Attorney as to the applicability of this section to a particular decision or set of facts. The response to such a request shall be made to the member making the request, and a copy shall be provided to the chairman of the committee and the City Manager.

(4) If an opinion is received from the Staff/City Attorney that a member has an impermissible conflict of interest pursuant to a particular decision or set of facts and the member does not disqualify himself or herself, the Committee may by majority vote (not considering the vote of the member with the alleged conflict) disqualify that member from all participation in the matter involved.



(D) Members of the Committee shall not commit themselves on any question scheduled to be considered by the committee prior to the consideration of the matter at a duly authorized meeting. Members shall use discretion in discussing with individuals scheduled agenda items which are later to be voted on by the Committee.

(Ord. passed 2-18-03; Am. Ord. passed 8-29-09; Am. Ord. passed 6-21-11)

**§ 10-12.8 ORGANIZATION, RULES, MEETINGS AND RECORDS.**

As soon as possible after their appointment and at the time and place designated by the Safety Coordinator, the members of the Committee first appointed shall meet and organize. The Safety Coordinator shall be the chairman and the Deputy Safety Coordinator shall serve as the vice-chairman. From among the members, the committee shall adopt rules and procedures in accordance with the City Charter, City Code, state and federal law and subject to City Council approval. The Deputy Safety Coordinator shall be responsible for recording and maintaining copies of minutes for all meetings showing the vote of each member on all matters. The Safety Coordinator shall be responsible for conducting all correspondence of the committee, supervising all clerical work of the committee, and maintaining files, reports, recommendations and actions of the committee. The committee shall adopt rules for transaction of its business which are in keeping with the provisions of this article. The committee shall establish a regular meeting schedule and shall meet frequently enough (minimum of at least monthly) so that it can handle the duties prescribed by this article.

(Ord. passed 2-18-03; Am. Ord. passed 8-29-09; Am. Ord. passed 6-21-11)

**§ 10-12.9 SUBCOMMITTEES.**

(A) The Safety and Loss Control Committee may from time to time establish subcommittees to assist it in studying specific questions and problems.

(B) From the membership of the Committee the chairman shall appoint three standing subcommittees. These subcommittees shall have three members each and shall handle the day to day activities of the Safety and Loss Control Committee. Those subcommittees shall be as follows:

(1) Incident Prevention Subcommittee to review, plan and recommend policies and procedures to develop and carry out an effective safety and incident prevention program. Efforts should concentrate on the basic causes of an incident and what could be done to prevent a recurrence of the incident;

(2) Training Subcommittee to address the training needs for all departments and to make the arrangements necessary to meet those needs on a continuous basis. A training program shall be developed to teach job fundamentals, from both a safety and job requirement standpoint, which will be made an integral part of the training of new employees as well as the retraining of existing employees;

(3) Inspection and Compliance Subcommittee to make monthly self-inspections of selected job sites and facilities as well as inspections of different departments/divisions so as to check for compliance with OSHA safety guidelines.

(4) Program Manual Review Subcommittee to make monthly reviews of selected sections of the City of Eden Safety and Loss Control Manual so as to check for compliance with OSHA guidelines.

(C) All subcommittees shall adopt a regular meeting schedule and shall meet often enough to carry out their assigned duties. Any documentation of subcommittee meetings shall be submitted to the Safety Coordinator as they occur.

(Ord. passed 2-18-03; Am. Ord. passed 6-21-11; Am. Ord. passed 6-17-2014)

#### **§ 10-12.10 POWERS AND DUTIES OF SAFETY AND LOSS CONTROL COMMITTEE.**

(A) Planning and recommending policies and procedures to develop a comprehensive safety and accident prevention program.

(B) Reviewing loss histories, accidents and other reports of safety matters, planning programs and evaluating effectiveness.

(C) Reporting to the City Manager on a regular basis regarding the safety and loss control program.

(D) Establishing procedures for handling suggestions and recommendations.

(E) Promoting training, self-inspections, accident investigation and proper work procedures within each department and division.

(F) Reviewing possible and reported safety code or standard operating procedure violations including those that result in accidents and those that do not.

(Ord. passed 2-18-03; Am. Ord. passed 6-21-11)

#### **§ 10-12.11 DEPARTMENT HEADS.**

Each department head shall be directly responsible for the safety record in their department and is designated as responsible to the City Manager for employee safety. The department head has supervisory responsibility for all safety functions and activities within his or her area. For purposes of this article the City Clerk, the Finance and Personnel Director, the Director of Planning and Inspections, the Director of Environmental Services, the Police Chief, the Fire Chief, the Parks, Recreation Director, Facility Maintenance and Grounds Director, and the Director of Engineering shall

be known as department heads. Each department head will be required, as a condition of employment, to report any and all safety violations to the Safety Coordinator and the City Manager. Each department head will:

(A) Hold each superintendent, supervisor, deputy chief, captain, lieutenant, sergeant, and any other person in a position with a supervisory capacity, accountable for injuries incurred by his or her employees. To provide leadership by setting a proper example for all employees, be responsible for successfully operating the department safety program and completing the department's safety objectives;

(B) Develop policies and standard operating guidelines and ensure they are complied with by all personnel under his or her direction. A copy of the required SOGs shall be given to the City Manager within 30 days of the effective date of this program and shall be updated according to changes in departments/divisions;

(C) Ensure that all employees (part-time and full-time), new and old, are trained or retrained in the accepted safety methods. Continued on-the-job training so that safe and proper procedures will be followed is critical;

(D) Responsible for the provision and use of mechanical guards and personal protective equipment by the employees under their jurisdiction. This shall include regular instruction on the proper use of all equipment;

(E) Hold employee safety meetings when applicable to review accidents, analyze their causes, and promote free discussion of hazardous work problems and possible solutions;

(F) Encourage safety suggestions and written comments from all employees and adopt those that are feasible;

(G) Require incidents to be promptly reported to the Safety Coordinator and direct supervisor, thoroughly investigated by supervisory personnel and properly recorded. In addition, ensure that proper disciplinary action is taken if warranted and documented with Human Resources;

(H) Ensure that prompt, corrective action is taken whenever unsafe conditions are recognized and unsafe acts are observed;

(I) Ensure that all employees are physically and mentally capable of performing their tasks;

(J) Be responsible for the processing of worker's compensation claim forms involving departmental employees and submitting those forms to Human Resources for handling;

(K) Serve on a safety committee or inspection team when appointed or elected.  
(Ord. passed 2-18-03; Am. Ord. passed 8-29-09; Am. Ord. passed 6-21-11)

**§ 10-12.12 SUPERVISORS.**

Supervisors shall include all superintendents, supervisors, deputy chiefs, captains, lieutenants, sergeants, and any other positions serving in a supervisory capacity. These persons will hereinafter be referred to as supervisors. Supervisors will assume the responsibility of thoroughly instructing their personnel in safe practices to observe in their work situations. Supervisors will be responsible for daily enforcement of all safety policies and procedures to the utmost of their ability and authority. Supervisors will be required, as a condition of employment, to report any and all safety violations to the Safety Coordinator and their direct supervisor. Supervisors will act positively to eliminate any potential hazards within any activities under their jurisdiction and they will set the example of good safety practice in all spheres of their endeavors. Safety records shall be measured along with other phases of supervisor performance. Therefore, it is absolutely essential that such records be complete and accurate and that all accidents be fully reported. Principal duties of supervisors are as follows:

(A) Enforce all safety rules and procedures;

(B) Make certain all injuries are reported promptly and treated properly and all accidents are reported, even if injury is not apparent;

(C) Conduct thorough investigations of all accidents and take necessary steps to prevent recurrence through employee safety education, operating procedures or modification of equipment;

(D) Provide employees with complete safety instructions regarding their duties prior to the employees actually starting to work;

(E) Conduct regular safety checks, including careful examinations of all new and relocated equipment before it is placed in operation;

(F) Properly maintain equipment and issue instructions for the elimination of fire and safety hazards;

(G) Continuously inspect for unsafe practices and conditions and properly undertake any necessary corrective action;

(H) Develop and administer an effective program of good housekeeping and maintain high standards of personnel and operational cleanliness throughout all operations;

(I) Provide safety equipment and protective devices for each job based on knowledge of applicable standards or on recommendations of the safety coordinator;

(J) Conduct safety briefings and encourage the use of employee safety suggestions;

(K) Give full support to all safety procedures, activities and programs;

(L) Wear the prescribed uniform and safety shoes as required;

(M) Serve on a safety committee or inspection team when appointed or elected.

(Ord. passed 2-18-03; Am. Ord. passed 8-29-09; Am. Ord. passed 6-21-11)

**§ 10-12.13 EMPLOYEES.**

Employees will be required, as a condition of employment, to exercise care in the course of their work to prevent injuries to themselves and to their fellow workers. Employees will be required, as a condition of employment, to report any and all safety violations to the Safety Coordinator and their direct supervisor. Employees are required to:

(A) Use the safety equipment which has been provided for use in performing daily work assignments;

(B) Wear the prescribed uniform and safety shoes, as required;

(C) Not operate equipment for which training or orientation has not been received;

(D) Warn co-workers of unsafe conditions or practices they are engaged in which could lead to or cause an accident;

(E) Report defective equipment immediately to a supervisor;

(F) Report dangerous or unsafe conditions that exist in the work place as well as throughout the municipality. This would include defective sidewalks, broken curbs, handling tree limbs, loose handrails, open man-holes, sunken basins and sewers, missing or damaged traffic signs or signals and the like;

(G) Report all injuries and accidents regardless of the severity as soon as practical;

(H) Protect unsafe conditions that result from municipal work that could present a hazard to the public;

(I) Take care not to abuse tools and equipment, so that these items will be in useable condition for as long as possible, as well as to ensure that they are in the best possible condition while being used;

(J) Participate in all required safety and occupational health training and be certain that they understand instructions completely before starting work;

(K) Serve on a safety committee or inspection team when appointed or elected.

(Ord. passed 2-18-03)

***DIVISION 2 OPERATIONS*****§ 10-12.14 MONTHLY SAFETY TRAINING PROGRAM – NEW EMPLOYEE ORIENTATION.**

(A) All section supervisors will conduct a monthly safety meeting with their employees. Date, those in attendance and the topic of the discussion will be documented. Documentation of safety meetings shall be submitted to the Safety Coordinator on a monthly basis.

(B) All newly assigned and/or hired employees will receive a safety orientation on the safety policies and procedures for their department/division and vehicles/equipment before going to work at their designated duty section. This orientation shall be the direct responsibility of the department head and shall be conducted by the department head and/or the employee's direct supervisor. The safety orientation will be documented and signed by both the department head/supervisor conducting the orientation and employee and a copy shall be placed in the employee's personnel file as a permanent record.

(C) Since the need for safety training varies according to the degree of exposures to hazardous conditions, it is impractical to establish mandatory minimum amounts of training to provide each month. Documentation of training sessions shall be submitted to the Safety Coordinator on a monthly basis. The Safety Coordinator will act as liaison in procuring instructors and visual aids on request. (Ord. passed 2-18-03; Am. Ord. passed 8-29-09; Am. Ord. passed 6-21-11)

**§ 10-12.15 INCIDENT INVESTIGATION.**

(A) Incident investigation will be performed by the immediate supervisor of the employee involved. If two or more employees were separately involved in the incident, the supervisor of each will perform independent investigations. Any incident involving death, permanent disability, temporary disability, hospitalization, medical treatment, loss of time from work by a city employee, damage to or destruction of any property or injury to a visitor will be investigated by the immediate supervisor and the Safety Coordinator. Outside parties can be called in to lead investigations of a serious injury or death.

(B) The purpose of incident investigation is to prevent the reoccurrence of incidents by identifying contributing causes, determining corrective measures necessary to eliminate causes, and disseminating information on incident prevention to the Incident Prevention Subcommittee. The Incident Prevention Subcommittee will then review the information assembled and prepare updates, memorandums and newsletters to all employees on incident prevention.

(C) Accurate, complete incident reports are essential to identify and remedy causes. Copies of all incident investigations shall be forwarded to the Safety Coordinator. The incident investigation shall be initiated after the occurrence of the incident in conformance with OSHA guidelines but in no event shall it be later than the next regular working day (excluding city observed holidays and weekends). Copies of all disciplinary actions taken shall be forwarded to Human Resources for filing in the appropriate personnel file.

(Ord. passed 2-18-03)

**§ 10-12.16 SELF INSPECTIONS.**

The purpose of self inspections is to identify hazardous work conditions and materials or methods that may result in an accident so that these hazards can be corrected. Each facility will be inspected not less than once every three months. An inspector needs to be designated for each facility along with an inspection schedule and inspection checklists. Upon completion of the inspection of the checklists, recommendations will be furnished to the department head or Safety Coordinator. The inspector's supervisor will take whatever corrective action is deemed appropriate, and maintain a record of completion of such corrective action.

(Ord. passed 2-18-03; Am. Ord. passed 6-21-11)

**§ 10-12.17 SAFETY RULES AND PROCEDURES.**

Safety rules and procedures shall be developed and monitored by each department. The department heads, supervisors and employees should all contribute to this task for their respective area. All such rules and procedures shall be in written form, a copy of which shall be given to the City Manager and to the members of the committee. The discipline for failure to comply with the Safety rules and procedures shall be covered under the Progressive Disciplinary Program.

(Ord. passed 2-18-03; Am. Ord. passed 8-29-09)