



Asheville City Personnel Policies

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PERSONNEL POLICY HANDBOOK

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ARTICLE 1. GENERAL

Sec. 1. Purpose of City of Asheville Personnel Policy.

It is the policy of the City of Asheville that all employees be treated fairly and equitably in all respects. Consistent therewith, it is the purpose of the Personnel Policy to establish a fair and uniform system of personnel administration which is supplemental to and consistent with the Asheville Civil Service Law and Asheville Civil Service Board Rules and Regulations.

The Asheville Civil Service Board is authorized to hear the grievance of any City employee who has been

discharged, suspended, reduced in rank, transferred against his/her will, or denied any promotion or raise in pay to which he/she would be entitled to, to determine whether or not the action complained is justified. The Board has also made and adopted rules and regulations regarding the appointment, promotion, transfer, layoff, reinstatement, suspension and removal of all full-time permanent City employees. Those rules and regulations are supplemented by the policies and procedures found and/or authorized herein.

Full-time permanent City employees who wish to bring a matter before the Civil Service Board may submit it in writing directly to the Board. Upon receipt of the communication the Board will promptly, before any action is taken, send a copy to the Human Resources Director and City Manager for their comment and recommendation. [See also, Rule 15, Procedure for Communications, Asheville Civil Service Board Rules and Regulations.]

Sec. 2. Merit Principles.

The City embraces the following merit principles in administering its personnel program:

A. Fair Treatment. Applicants and employees shall be assured of fair treatment in all aspects of personnel administration without regard to political affiliation, religion, sex, non-job related handicap, national origin, age, marital status, color or race. Individuals shall likewise be treated with proper regard for their privacy and constitutional rights as employees and citizens.

B. Sexual and Racial Harassment. Sexual and racial harassment shall not be tolerated in the workplace.

C. Recruitment, Selection, Training, Advancement. Employees shall be recruited, selected, trained and advanced on the basis of their relative ability, knowledge and skill.

D. Retention. Tenure of employment shall be subject to satisfactory performance of work, personal conduct compatible with the trust inherent in public service, necessity for the work performed and availability of funds. Conditions of employment shall be maintained to promote efficiency and economy in the operation of the City government.

E. Pay and benefits. Employees shall receive equitable and adequate pay and benefits. To ensure that they do, a position classification and compensation plan shall be established and revised from time to time to meet changing conditions.

F. Protection Against Political Coercion. Employees shall be protected from political threats, harassment or forced political activity.

Sec. 3. Responsibility of City Manager.

The City Manager shall be responsible to the City Council for the administration of the personnel program which shall apply to all employees. In doing so, the City Manager or his/her designee may promulgate personnel policies governing City employees. Rules and regulations so made and promulgated shall be binding on all persons affected thereby; provided, however, that no such policy, rule or regulation shall be

contrary to any provision of the City Charter, the City's Personnel Policy, other laws, or other ordinances or resolutions of the City Council.

Sec. 4. Human Resources Department.

There is hereby created a Human Resources Department under the supervision of the City Manager which shall have continuing responsibility and authority with respect to personnel matters as set forth herein. The department shall have primary responsibility for maintaining all employee records and for developing and advising employees regarding all policies, rules, regulations, benefits, programs and procedures applicable to them. All employees shall have full and unobstructed access to the Human Resources Department for these purposes.

Sec. 5. Responsibility of Human Resources Director.

The City Manager shall appoint a Human Resources Director who shall be responsible to the City Manager for applying, interpreting and carrying out the provisions of the City's Personnel Policy and the policies adopted thereunder. The Human Resources Director shall perform such duties in connection with a modern personnel program as the City Manager may require, including:

- A. Assisting the City Manager in the preparation and maintenance of the position classification and compensation plan;
 - B. Establishing and maintaining a complete centralized system of personnel files and records;
 - C. Fostering and developing programs which support the personal and professional growth of employees; and
 - D. Investigating every three (3) years the operation and effect of the City's Personnel Policy and policies made thereunder and reporting findings and recommendations to the City Manager.
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Sec. 6. Establishment of Departmental Rules and Regulations.

Due to the particular personnel and operational requirements of his/her department, each department director has the authority to establish supplemental rules and regulations applicable only to the personnel of his/her department. All rules and regulations adopted pursuant to this section shall be subject to the approval of the City Manager and Human Resources Director and shall not in any way conflict with any provision of the City Charter, the City's Personnel Policy, or other City policies applicable to all employees. [See also, Sec. 27, Department heads, City Charter; Rule 5, Establishment of Departmental Rules and Regulations, Asheville Civil Service Board Rules and Regulations.]

Sec. 7. Definitions. (Revised 2/7/99)

A. Probationary Employee. A newly hired or promoted employee who has not successfully completed the guidelines set forth in Section 24 of this policy.

B. Seasonal and/or Temporary Employee: An employee who has been hired with the understanding that the employment will continue only for a specified period of time, not to exceed twelve (12) continuous months.

C. Part-Time Regular Employee: An employee who has been hired into a budgeted position that is funded between 20 hours and 37.5 hours weekly and has successfully completed probationary period.

D. Full-Time Regular Employee: An employee who has been hired into a full-time budgeted position and has successfully completed probationary period.

E. Position Classification Plan. A systematic categorization of jobs or positions into occupational groups and classes on the basis of similarities in duties, responsibilities and qualification requirements.

F. Pay Plan. A systematic categorization of salary levels based upon the relative difficulty and responsibilities of jobs or positions as well as salary levels of comparable positions in other segments of the labor market.

G. Work Shift. The regularly established number of hours an employee is scheduled to work in a shift.

H. Contract Employee. An employee who performs work for the City of Asheville pursuant to a contract between that individual and the City of Asheville, or pursuant to a contract between the City and another governmental agency. Contract employees are eligible for those benefits set forth in the contract.

Sec. 8. Position Classification Plan.

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

Sec. 9. Use of Position Classification Plan.

The position 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 ranges to be paid for various types of work; and
- (d) In providing uniform job terminology.

Sec. 10. Administration of the Position Classification Plan.

The City Manager shall be responsible for the administration of the position classification plan and shall periodically review the entire position classification plan and recommend appropriate changes to the City Council. The Human Resources Department, under the direction of the Human Resources Director and the City Manager, shall have continuing responsibility to assure that this policy is implemented.

Sec. 11. Adoption of Position Classification Plan.

The position classification plan shall be adopted by City Council. It shall be on file in the offices of the City Clerk and Human Resources Director and shall be made available to all City employees upon request.

Sec. 12. Pay Plan.

The pay plan includes the basic salary schedule adopted and amended by the City Council. The salary schedule consists of the following information with regard to each position classification:

- (1) Minimum and maximum rates of pay;
- (2) The designated number of hours in each applicable work week or cycle;
- (3) The designated exempt/non-exempt status under the Fair Labor Standards Act; and
- (4) The designated EEOC job category.

Salary increases within the pay range shall be based upon performance.

Sec. 13. Pay Plan Maintenance.

The Human Resources Department shall be responsible to the City Manager for the administration and maintenance of the pay plan. Each year the Human Resources Department shall submit appropriate recommendations on pay and fringe benefits to the City Manager. Programs of comparable governmental and private institutions will be reviewed prior to recommendation formulation.

The City Manager shall review the studies and recommendations of the Human Resources Department, in addition to the general financial condition of the City, and recommend to the City Council such changes to the pay plan as necessary to maintain the fairness and adequacy of the plan. Such recommendations shall be submitted to City Council for consideration and may include provisions, including but not limited to, performance pay, and cost of living adjustments.

Sec. 14. Adoption of Pay Plan.

The pay plan and all amendments thereto shall be adopted by City Council each fiscal year.

Sec. 15. Payroll Deductions.

Deductions shall be made from each employee's salary as required by law. Additional deductions may be made pursuant to a City policy as approved by the City Manager.

ARTICLE 2. EMPLOYMENT POLICY

Sec. 16. Statement of Policy.

The policy of the City is to hire and retain the best qualified employees by recruiting, training and promoting individuals in a timely, efficient and fair manner. To achieve this, the City recognizes that:

1. All vacancies should be publicized and filled by open competition;
 2. Selection devices should distinguish between applicants on the basis of their ability to perform the job;
 3. Employees should be paid equitable and adequate compensation based upon their duties and responsibilities and level of performance;
 4. Employees should be trained and provided guidance in improving their performance;
 5. Employees should be protected from political threats, harassment or forced political activity;
 6. Employees should enjoy job security as long as their personal conduct and work performance remains satisfactory; and
 7. Employees who are discharged, suspended, demoted, reduced in rank, transferred against his/her will, or denied any promotion or raise in pay to which he/she would be entitled to shall have the opportunity to a hearing before the Asheville Civil Service Board to determine whether or not the action complained of is justified.
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Sec. 17. Implementation of the Policy.

The Human Resources Department shall regularly review the personnel policies and practices of the City to assure that equal employment opportunity based upon reasonable job-related requirements is actively observed and that no employee or applicant for employment suffers discrimination because of age, sex, race, color, religion, political affiliation, non-job related handicap, national origin, or marital status.

Sec. 18. Recruitment.

The goal of the City of Asheville in recruitment of City employees is to hire and retain the best qualified individuals. In conformity with merit system principles, the Human Resources Department shall be responsible for publicizing all full-time and part-time opportunities for employment with the City, including the position, salary, and employment qualifications. Job announcements shall be posted in all City departments and divisions at least ten (10) days in advance of a designated test date, and may also be advertised through newspapers and other recruitment sources, including minority groups' and women's organizations, professional groups and educational institutions. Announcements shall comply with Federal and State laws, contain assurances of equal employment opportunity and encourage minorities, females and other underrepresented groups to apply. [See also, Rule 3, Testing, Asheville Civil Service Board Rules and Regulations.]

Sec. 19. Application for Employment.

All persons expressing interest in employment with the City shall be given the opportunity to file an application for employment with the Human Resources Department. In addition, all applications received through other departments shall be forwarded to the Human Resources Department in a timely manner.

Sec. 20. Application Reserve File.

Each application received by the Human Resources Department shall be kept in a reserve file for a period of two (2) years or as otherwise required by State or Federal law.

Sec. 21. Qualifications and Testing.

(a) It is the policy of the City that hiring qualifications for both entry level and promotional level jobs be fair and equitable. All selection devices administered by or under the direction of the Human Resources Department shall be job related and measure the knowledge, skills and abilities actually required for the job. Qualifications shall be reviewed periodically to be assured that requirements conform to the actual job performance requirements and to changing situations.

(b) Applicants applying for a full-time or part-time job opening must satisfy the requirements set forth in the job analysis and/or class specification for the position in question. Applicants who fail to satisfy such requirements or who attempt deception or fraud in connection with any test, including the applicant's warranty as to the condition of his/her health, shall be rejected. [See also, Rule 4, Requirements of Applicants, Asheville Civil Service Board Rules and Regulations.]

(c) For purposes of this section, the following provisions shall apply:

(1) Test-Defined. A test shall be any method of fairly measuring the relative fitness of applicants to discharge the duties of the position which they seek, and may include, but not be limited to, written records, drug and alcohol screening, and criminal history and/or nonconviction data where applicable.

(2) Notice In conformity with merit systems principles, the Human Resources Department shall be responsible for publicizing all full-time and part-time opportunities for employment with the City, including the position, salary, and employment qualifications. Job announcements shall be posted in all City departments and divisions at least ten (10) days in advance of the designated test date.

(3) Entrance Appointments, Skilled. Appointments to permanent full-time positions designated by the Civil Service Board as skilled shall be based on the results of open competitive tests, except as provided in this section.

(4) Entrance Appointments, Unskilled. Appointments to permanent full-time positions which are designated by the Civil Service Board as unskilled shall be based on the successful completion of a work performance evaluation conducted within the first sixty (60) days of employment by the appointing authority.

(5) Promotional Appointments. Promotions to permanent full-time positions, except as provided in this section, shall be based on competitive tests which may include, but may not be limited to, written examination(s), oral interview(s), medical history, psychological examination(s), current and previous employment history, character references, motor vehicle traffic records, drug and alcohol screening, and criminal history and/or nonconviction data where applicable.

Promotional appointments shall only be open to part-time and full-time City employees at the time the appointment is available. If no such member of the City service is qualified for the promotional appointment, as shown by the results of a competitive test, the appointment may be opened to persons not currently members of the City service.

(6) Part-time (Temporary and Seasonal) Appointments. The appointing authority may make appointments to part-time (temporary or seasonal) positions in the City service. Such appointments shall not exceed fifteen hundred sixty-two (1562) hours in any given twelve (12) consecutive month period from date of employment, and may only be renewed upon recommendation of the Human Resources Director and the approval of the Civil Service Board. Such appointments shall be based upon standards deemed appropriate by the Human Resources Department.

(7) Noncompetitive Tests. The Civil Service Board may approve the appointment to any permanent full-time position in the City service requiring qualifications of a scientific, managerial, professional or educational nature based on noncompetitive tests. Such tests shall be based on an evaluation which may include, but not be limited to, written examination(s), oral interview(s), medical history, psychological examination(s), current and previous employment history, character references, motor vehicle traffic records, drug and alcohol screening, and criminal history and/or nonconviction data where applicable.

(8) Re-Test. No applicant for entrance or promotional appointment may take the same competitive test for a position again for one (1) year following the last date the applicant took the test.

(9) Test Administration.

(a) Whenever the word Director is used it shall mean the Director of the Civil Service Board and whenever the word Secretary is used it shall mean the Executive Secretary of the Civil Service Board, and the word Board shall mean the Civil Service Board of the City of Asheville. [See also, Rule 2, Definition of Terms, Asheville Civil Service Board Rules and Regulations.]

(b) Whenever it is necessary to establish a test for a vacant position or to revise an existing test, the Executive Secretary and the head of the respective department or division, under the supervision of the Human Resources Director, shall prepare a selection process based upon the requirements outlined in the job analysis and/or class specification. The selection process may include, but not be limited to, written examination(s), oral interview(s), medical history, psychological examination(s), current and previous employment history, character references, motor vehicle traffic records, drug and alcohol screening, and criminal history and/or nonconviction data where applicable.

(c) The Executive Secretary shall be responsible for the duplication and storage of tests in a secure manner and for the administration and proctoring of tests at the time and place designated by the Civil Service Board.

(d) Unless otherwise approved by the Board, the Secretary shall submit completed tests to one (1) or more members of the Civil Service Board who have been designated by the Director of the Board to examine and review the questions and answers and other materials submitted and grade the papers and report their findings at the next regular or special meeting of the Board.

(e) No test grades shall be made available to the general public or applicants until after they have been reported and approved by the Civil Service Board. After such time as the grades have been reported and approved by the Board, applicants may review the results of his/her test paper in the presence of the Executive Secretary, or his/her designee, but shall not remove the test or its answers from the office of the Executive Secretary.

[See also, Rule 3, Testing; Asheville Civil Service Board Rules and Regulations.]

Sec. 22. Employment Procedures.

(a) Whenever a full-time, permanent job opening occurs, the recruitment procedures set forth in the Section 18 shall be completed. Thereafter, the Human Resources Department shall conduct a selection process based upon the requirements outlined in the job analysis and/or class specification. The City selection process may include, but not be limited to, written examination(s), oral interview(s), medical history, psychological examination(s), current and previous employment history, character references, motor vehicle traffic records, drug and alcohol screening, and criminal history and/or non-conviction data where applicable. At the

conclusion of the process, the Human Resources Department shall develop an eligible list of screened and qualified applicants for the classification which shall be maintained for a period not to exceed two (2) years. The Human Resources Department shall thereafter refer the names and addresses of the highest three (3) eligibles on the list to the appointing authority pursuant to Section 9 of the Asheville Civil Service Law.

(b) The list of applicants eligible to appointment by reason of Civil Service Tests, with their grades, shall be known as the register of eligibles and shall be opened to public inspection. The names of such eligibles shall be arranged in the respective lists in the order of their standing on the test, and without reference to the time of the test.

The name of no person shall remain in the register of eligibles for more than two (2) years without a new application, and a new test.

(c) Upon receipt of referred applications, the department director and/or his/her designee shall interview each applicant and attach a written statement to the application of each such applicant stating the results of the interview, including reasons for selection or non-selection, prior to filling such position.

(d) Any applicant whose name has been on the register of eligibles for a period of two (2) years without appointment, shall be required to make new application and be re-examined. Any eligible applicant refusing appointment to a position for which he/she has been examined shall have his/her name removed from the register of eligibles for that classification unless he/she supplies the Board with a valid reason.

(e) All part-time positions within the City service shall be filled in accordance with an appropriate recruitment and selection plan as developed by the Human Resources Department.

(f) Regardless of the selection method used, all applicants shall be selected for appointment on the basis of job-related qualification standards. [See also, Rule 3, Testing; Rule 7, Eligible List - 2 Years, Asheville Civil Service Board Rules and Regulations.]

Sec. 23. Promotions.

It is the policy of the City to encourage filling vacancies and positions above the entry level in any job classification by the promotion of City employees. Department directors and supervisors shall make every effort to anticipate promotional opportunities, identify and/or provide opportunities for employees to acquire the skills necessary for the exercise of greater responsibilities and encourage employees to take advantage of those opportunities.

All promotions shall be made in accordance with the employment procedures of Sections 21-22 of the City of Asheville Personnel Policy. [See also, Rule 3, Testing, Asheville Civil Service Board Rules and Regulations.]

Sec. 24. Probationary Period. (Revised 2/7/99)

All newly appointed or promoted employees shall serve a probationary period of 180 days, during which time the employees shall be deemed "probationary employees". Probationary employees shall be entitled to

benefits as provided in the City's Personnel Policy.

No later than 10 days after a probationary employee's first day at work, the supervisor shall establish the employee's work plan, which shall have been approved by the department director. At intervals not later than 90 days and 150 days after the first day of work, the supervisor shall review with the probationary employee his/her performance under the work plan. Said review shall include the following criteria:

1. The employee's accomplishments, needed improvements, strengths and weaknesses;
2. Whether the employee is performing satisfactorily in his/her work;
3. What the employee must do to bring his/her work up to a satisfactory level if it is unsatisfactory;
4. What the supervisor can do to help the employee bring his/her
5. The length of time the employee has, if any, to make the necessary improvements.

The work plan and review criteria established above may be supplemented according to the needs of the department or the requirements of the particular position, and shall be furnished to the employee at the time the work plan is established. The reviews set forth herein need not be formal; however, notice of any problems or deficiencies must be provided in writing to an employee in order to satisfy the writing requirements of this section.

Any person hired by the City of Asheville may, during the probationary period, be dismissed by the director of the employing department for any reason not contrary to the laws of public policy of North Carolina. Such action shall not take place until the department director has consulted with the Human Resources Director. Such reasons shall be set forth in writing by the department director and made available to the affected employee at the time of the dismissal. In the event that such action is reviewed by the Civil Service Board, compliance with the writing requirement of paragraph (b) shall be deemed sufficient justification for the action taken. In such matters, the Chairman of the Civil Service Board may act for the Board.

The probationary period may be extended for up to ninety (90) additional days by the department director, with the written concurrence of the Human Resources Director.

This section shall apply to former City employees who are rehired after a period of separation from employment with the City.

This section shall apply to non-probationary employees who are transferred to new positions with the City; provided, that any disciplinary or performance-based action other than returning the employee to the former position, shall be in accordance with the policies and rules applicable to non-probationary situations

Exceptions for certain employees: The probationary period for new or rehired employees in police and fire departments shall commence with the first day of the employee is available for regular duty following completion of the training or education necessary to fulfill the minimum requirements for certification as imposed by North Carolina law. The time period required for such training or education shall be established by the department director of the respective department in consultation with the Human Resources Director, and approved by the Civil Service Board.

Probationary employees who fail to receive notification from departmental management as to their employment status by the 180th day shall rightfully assume status as a regular employee with all non-probationary City policies applicable to them at all time

In the case of the employees in other departments whose positions may but do not always require minimum certificates or training, a probationary period for that employee may be established by the department director in consultation with the Human Resources Director, and shall be reported to the Civil Service Board. In no case shall a probationary period established pursuant to this paragraph be less than 180 days.

. Sec. 25. Affirmative Action.

The City Manager shall submit to the City Council a written Affirmative Action Plan which includes annual employment goals and timetables. The Affirmative Action Plan shall address the recruitment, selection, training, advancement and retention of members of underutilized categories and shall assign responsibility for implementation of the Plan. The City Manager shall be responsible for review of the City's Affirmative Action Plan and shall submit to the City Council a semi-annual report along with recommended changes to the Plan.

ARTICLE 3. CONDITIONS OF EMPLOYMENT

Sec. 26. Employment of Immediate Family/Significant Other.

Employment of an immediate family member or a significant other in the same department is allowed, provided the employees are assigned to established and recognized separate work units and provided further that one does not at any time have supervisory authority over the other.

For the purposes of this section, the following definitions apply:

- (a) Supervisory authority is defined as having the initial, intermediate or final authority to (1) direct and/or evaluate the work/conduct of another employee; or (2) hire, dismiss, promote or demote any other employee.
- (b) Immediate family includes spouse, mother, father, legal guardian, child, sister, brother, grandparent, grandchild, and the various combinations of half, step, in-law and adopted relationships that can be derived from those named.
- (c) Significant other includes any person with whom the employee cohabits and shares an intimate relationship regardless of marital status.
- (d) Work unit is defined as an established and recognized work crew including but not limited to a patrol squad, fire platoon, or motor equipment crew.

This section shall not effect the employment status of immediate family members/significant others who are assigned to the same work unit on the effective date of this ordinance.

Sec. 27. Outside or Dual Employment.

The work of the City shall have precedence over the other occupational interests of employees of full and permanent part-time employees.. The City recognizes the right of these employees to use their off-duty time for secondary employment purposes as long as such secondary employment does not adversely affect their availability for or the quality of their City work, represent a conflict of interest or otherwise violate their duty of loyalty to the City, violate any policies and procedures established by the City, or reflect discredit upon the City. Employees are cautioned not to engage in secondary employment that impairs their physical or mental abilities to perform their City work.

All outside employment for salaries, wages, or commission and all self-employment must be reported in writing in advance to the full or permanent part-time employee's supervisor, who in turn will report it to the department director. Each situation will be evaluated on a case-by-case basis using criteria of public perception and liability, job performance, and time and compensation. Failure to notify the City of secondary employment may be deemed improper conduct and subject the employee to disciplinary action up to and including dismissal.

An employee who sustains injury or illness in connection with secondary employment shall not be entitled to receive workers' compensation benefits provided by the City. In addition, secondary employment work shall not be performed during City working hours and the use of City-owned equipment and materials for the purposes of performing secondary employment work is strictly prohibited, unless otherwise approved by the employee's department director.

A full- or part-time employee of the City may simultaneously hold another position with the City if the temporary position is in a different department and/or clearly different program area from that of the full- or part-time position. The work of the full- or permanent part-time position shall take precedence over the dual-employment position, and such work will not count toward the calculation of over-time for pay or time off, except in those instances as required by the Fair Labor Standards Act. Contributions to the Local Government Employees Retirement System shall be made if the employees works over one thousand (1000) hours as a result of such work.

Employees who are absent from work due to illness are not permitted to report to secondary or dual employment, except as allowed by the Family Medical Leave Act and/or as approved by the employee's department director.

All employees shall, in addition to this section, follow those rules and regulations set forth in their departmental policies.

Violation of this section shall be grounds for disciplinary action up to and including dismissal.

Sec. 28 Conflict of Interest.

No official or employee of the City shall:

- A. Accept any gift, favor, or thing of value that may tend to influence such employee in the discharge of the employee's duties; or
- B. Grant in the discharge of duty an improper favor, service or thing of value; or
- C. Use his/her position, in any way, to coerce, or give the appearance of coercing, another person to provide any financial benefit to the employee or to other persons; or

D. Conduct any personal business during City working hours or using City supplies or equipment for personal benefit; or

E. Engage in any other activity which might give the appearance of impropriety, such as violation of law, statute regulation or ethical standard.

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

[See also, Sec. 61, Inappropriate Personal Conduct - Defined; Rule 13, Inappropriate Personal Conduct - Defined, Asheville Civil Service Board Rules and Regulations.]

Sec. 29. Employee Organizations.

The City recognizes the rights of its employees to belong freely and without discrimination to an organization chosen by the employee. Equally, the City recognizes the rights of its employees to choose not to belong to an organization. The City, therefore, will not coerce or discriminate against any employee nor will it willingly permit coercion or discrimination against any employee in the exercise of such employee's right to join or not join an employee organization.

Sec. 30. Political Activity.

Employee political activity is restricted to the extent provided by the Constitution and the laws of the United States and the State of North Carolina, and more specifically by the Asheville Civil Service Law (see sections 19, 20, 21). [See also, Sec. 61, Inappropriate Personal Conduct - Defined; Rule 13, Inappropriate Personal Conduct - Defined, Asheville Civil Service Board Rules and Regulations.]

Sec. 31. Health and Safety Policies.

The City of Asheville has a sincere concern for the health, safety and welfare of its employees. Policies and programs may be developed to address areas including but not limited to smoking, safety, health and fitness, terminal illness and employee assistance.

Sec. 32. Drug-Free Workplace Policy.

The City of Asheville is committed to providing a drug- and alcohol-free workplace. Consistent with this commitment, a drug and alcohol policy applicable to all City employees and all City-related operations may be developed by and administered through the Human Resources Department.

Sec. 33. Hours of Work.

Department heads and/or their designees shall be responsible for notifying employees of their normal work

schedules. Employees may, however, be required to work overtime hours as necessitated by the needs of the City and determined by the department director. All such hours shall be compensated in accordance with the City's pay plan.

Sec. 34. Residency Requirement.

There is no residency requirement for City employees with the exception of department directors and emergency personnel designated by the City Manager.

Department heads must maintain their primary place of residence within the corporate limits of the City of Asheville unless otherwise approved by the City Manager.

Designated emergency personnel must live within a thirty (30) minute commute time to the Municipal Building, as indicated on a map approved by the City Manager, or reside within Buncombe County.

Department heads shall be responsible for establishing appropriate measures to monitor compliance with the residency requirement for their designated emergency personnel.

Sec. 35. Reduction in Force.

In the event a reduction in workforce is necessary, the City Manager, after consultation with the Human Resources Director and other appropriate department director(s), shall determine the number of employees to be laid off and the job classification(s) in which reduction in force will occur. In doing so, the City Manager shall give primary consideration to the continuing operational and personnel needs of the City and secondary consideration to factors such as an employee's performance and length of continuous service with the City. Prior to implementing a reduction in force, the City Manager shall submit a report to City Council which may include a request for severance pay.

Prior to any layoff, efforts shall be made to transfer permanent employees to vacant positions for which they qualify. Such transfers will be to the same or lower pay grade and shall be coordinated by the Human Resources Department.

Employees laid off shall be given reasonable advance notice based upon the circumstances and shall be given available assistance in obtaining unemployment benefits. [See also, Rule 6, Reduction in Force, Asheville Civil Service Board Rules and Regulations.]

Sec. 36. Reinstatement.

An employee of the City who is on educational, family, medical, military or other authorized leave shall be reinstated to his/her former position or one comparable in seniority, status, and salary, if such employee returns to City service at the expiration of such leave or authorized extension thereof. An employee who fails to return within the required time will be considered as having voluntarily resigned and be removed from City service.

Sec. 37. Rehiring.

An employee who resigns while in good standing with the City may be reemployed without competitive examination to the same or similar position with the approval of the requesting department director, the Human Resources Director, and the Asheville Civil Service Board. The terms of reemployment shall comply with all applicable rules and policies of the City of Asheville. [See also, Rule 8, Rehiring, Asheville Civil Service Board Rules and Regulations.]

No employee dismissed for cause may be reemployed by the City in any position for a period one (1) year from his/her last day of work unless approved by the City Manager.

Sec. 38. Transfers.

Any full-time permanent employee of the City may transfer to a similar position in another department upon the approval of the respective department director(s), the employee, the Human Resources Director and the Asheville Civil Service Board.

An employee who is involuntarily transferred to a position in another department may appeal such action in accordance with the City's grievance procedure. [See also, Rule 9, Transfers, Asheville Civil Service Board Rules and Regulations.]

Sec. 39. Demotion.

Any employee whose work or conduct is unsatisfactory or who becomes unable or unwilling to perform the requirements of his/her position is subject to demotion or dismissal in accordance with Article VI of the City of Asheville Personnel Policy. [See also, Sec. 60, Unsatisfactory Job Performance - Defined; Sec. 61, Inappropriate Personal Conduct - Defined; Rule 10, Demotions; Rule 11, Discipline - In General; Rule 12, Unsatisfactory Job Performance - Defined; Rule 13, Inappropriate Personal Conduct - Defined, Asheville Civil Service Board Rules and Regulations.]

An employee may request a voluntary demotion to a lower position in the City's service. Such a request must be approved by the respective department director(s), the Human Resources Director, and the Asheville Civil Service Board. [See also, Rule 10, Demotions, Asheville Civil Service Board Rules and Regulations.]

ARTICLE 4. EMPLOYEE BENEFITS**Sec. 40. Responsibility.**

It shall be the responsibility of the Human Resources Department to annually review the employee benefits provided to City employees, including but not limited to group life, health, and dental programs, and to make appropriate recommendations to ensure a comprehensive program of benefits.

Sec. 41. Workers' Compensation.

Any employee who suffers a work-related injury or illness as defined under Chapter 97 of the North Carolina General Statutes and, therefore, is absent from duty will be eligible for and paid benefits as defined in the Workers' Compensation Act. Employees eligible for such benefits under the Workers' Compensation Act will not be entitled to sick leave or vacation leave, except as provided herein.

1. An employee will be allowed to take sick leave for any work days missed during the first seven (7) calendar days of disability following a work-related illness or injury to compensate him/her for wages lost during the "waiting period" as defined in Chapter 97 of the North Carolina General Statutes. Further, pursuant to the Workers' Compensation Act an employee absent from work for a period of 21 calendar days or longer will be eligible for Worker's Compensation benefits retroactive to the first week of disability, and those payments will be applied towards a credit of sick leave taken, to be reimbursed to the employee's accumulated credit total at the time of reimbursement.

2. Any employee not having accrued sick leave available for the purposes as defined above will be allowed to take compensatory time, vacation leave and/or accumulated holiday leave, or any combination thereof that will provide benefits during the waiting period for the Workers' Compensation benefits. In the absence of any accrued compensatory, vacation or holiday pay, employees will be placed on a leave without pay status during the prescribed waiting period.

3. Any employee who is receiving the maximum weekly benefit under the Workers' Compensation Act and who, due to his/her rate of pay at the time of injury, is not receiving an amount equal to 2/3 of his/her average weekly wage, will be allowed to draw that portion of a sick leave day necessary to bring his/her weekly compensation benefit and sick leave pay together to an amount not greater than 2/3 of his/her average weekly wage at the time of injury. Under no circumstances will such a combination of sick leave and compensation benefits be allowed to exceed 2/3 of the employee's average weekly wage as statutorily prescribed by the Workers' Compensation Act.

Sec. 42. Holidays and Leaves of Absence.

The policy of the City is to provide paid leave, including but not limited to annual leave, sick leave and holiday leave to all permanent full-time employees.

Sec. 43. Annual Leave.

Annual leave may be used for rest and relaxation, illness or medical/dental appointments when sick leave is exhausted, adverse weather conditions and other reasons deemed appropriate by the employee.

Annual leave shall be earned by full-time and qualified part-time employees in active pay status in accordance with the following table:

CONSECUTIVE	20 HRS	25 HRS	30 HRS	37.5 HRS WEEK.	40 HRS WEEK	112 HRS	16 DAY CYCLE	DISTRICT 16 DAY
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	WEEK	WEEK	WEEK			CYCLE.		CYCLE
YEARS OF SERVICE								
<u>YEARS</u>	Acc/Mo	Acc/Mo	Acc/Mo	Acc/Mo	Acc/Mo	Acc/Mo	Acc/Mo	Acc/Mo
0 - 4	4.0	5.2	6.0	7.5	8.0	12.0	9.5	11.0
5 - 9	N/A	N/A	N/A	9.4	10.0	15.0	11.9	15.0
10 - 14	N/A	N/A	N/A	11.3	12.0	18.0	14.3	16.5
15 +	N/A	N/A	N/A	12.5	13.4	20.0	15.9	18.3

.Employees shall be granted the use of annual leave upon written request or at those times otherwise designated by the department director or his/her designee which will least obstruct normal operations of the department.

The maximum limit for accrued annual leave that may be carried into a subsequent calendar year will be equal to the amount earned in a two year period, i.e. 10 years of service accruing 18 days per year may carry over a maximum of 36 days..

Upon separation from employment with the City, an employee shall be paid for annual leave accumulated to the day of separation, not to exceed the maximum accrual rate pursuant to this section; provided, further, that upon the death of an employee, compensation for accumulated annual leave shall be paid to the employee's estate.

Accrued leave is not provided to part-time employees hired after August 1, 2002.

Sec. 44. Sick Leave.

Sick leave with pay may be used by eligible employees who are absent for:

- A. Personal sickness, bodily injury, medical/dental appointments; and
- B. Exposure to a highly contagious disease (i.e. hepatitis, mononucleosis, chicken pox) when continuing to work might jeopardize the health of others; and
- C. Illness of a member of the employee's immediate family/significant other until other arrangements can be made if such illness requires the care or presence of the employee; provided, however, that such leave shall not exceed seventy-five (75) hours per calendar year for those employees on a 37.5 hour work week, eighty (80) hours per calendar year for those employees on a 40 hour work week, ninety-five (95) hours per calendar year for those employees on a 16 day work cycle, one hundred and twelve (112) hours per calendar year for those employees on a one hundred and twelve (112) hour work cycle and one hundred ten (110) hours per calendar year for those employees on a 16 day district cycle.

Employees shall be granted the use of sick leave under (C) above unless such leave will obstruct normal operations of the department; provided further, that no employee shall be entitled to use sick leave to care

for a member of the employee's immediate family/significant other until his/her initial probationary period or any extension thereof has been completed.

For the purposes of this section, the following definitions apply:

(a) Immediate family includes spouse, mother, father, legal guardian, child, legal dependant and the various combinations of half, step, in-law and adopted relationships that can be derived from those named.

(b) Significant other includes any person with whom the employee cohabits and shares an intimate relationship regardless of marital status.

Sick leave shall be earned by employees in active pay status in accordance with the following table:

CONSECUTIVE YEARS OF SERVICE	20 HRS WEEK	25 HRS WEEK	30 HRS WEEK	37.5 HRS WEEK	40 HRS WEEK	112 HR. CYCLE	16 DAY CYCLE	DISTRICT 16 DAY CYCLE
<u>YEARS</u>								
0-4	4.0	5.2	6.0	7.5	8.0	12.0	9.5	11.0
5+	N/A	N/A	N/A	9.4	10.0	15.0	11.9	15.0

It shall be the responsibility of the employee to notify his/her supervisor of the use of sick leave pursuant to department policy. Such policy may include provisions for, including but not limited to, a certificate or statement from the City Nurse or employee's attending physician regarding the nature of the employee's illness, his/her physical capacity to resume duties, or similar information regarding the nature of an employee's immediate family member's/significant other's illness.

Failure to follow procedures and policies may result in the denial of sick leave with pay and/or other appropriate disciplinary action.

Employees shall not be compensated for accumulated sick leave upon separation of employment with the City. However, sick leave shall be applied to the employee's retirement account pursuant to applicable rules and regulations of the Local Governmental Employees' Retirement System.

Accrued leave is not provided to part-time employees hired after August 1, 2002.

Sec. 45. Sick Leave Bank.

The Human Resources Director shall establish an ongoing committee responsible for administering a City sick leave bank. The bank shall consist of sick leave hours donated by City employees to serve as a reserve for employees who experience catastrophic illnesses/injuries and who have exhausted all outstanding sick, annual, holiday, and compensatory leave.

Sec. 46. Holiday Leave.

The following are designated as holidays with pay for all permanent full-time employees of the City; provided, however, that the City Manager may designate the day on which the holiday(s) is(are) observed by employees who are required to provide City services on the day designated for other City employees:

- a. New Year's Day
- b. Martin Luther King's Birthday (observed the third Monday in January)
- c. Good Friday
- d. Memorial Day (last Monday in May)
- e. July 4
- f. Labor Day (first Monday in September)
- g. Thanksgiving Day (two working days: Thanksgiving Day and Friday)
- h. Christmas (three working days: Christmas day itself and the first working day prior to and after the observed holiday)

If a holiday falls on a weekend, the City Manager shall be responsible for designating the day on which the holiday(s) is(are) observed by employees.

Unless otherwise authorized by the City Manager, at the end of each calendar year, any City employee with accrued holiday leave shall have this leave converted to sick leave. This converted sick leave shall be used in the same manner as accrued sick leave and may be used for authorized sick leave purposes. And, like regular sick leave, any unused converted sick leave may be counted towards credible service at retirement up to a maximum of twelve (12) total days per year of service.

Sec. 47. Family Leave. (Revised - 2/7/99)

An employee may request a family or medical leave of absence for a period not to exceed six (6) months for purposes of pregnancy, childbirth, adoption, foster care, miscarriage, abortion, medical care of the employee, his/her legal dependent, spouse or parent. The period of absence may be covered by authorized leave or taken without pay. Each request must be submitted to the employee's Department Director and requires the approval of the department director, Human Resources Director and City Manager. Requests should be submitted within thirty (30) calendar days of the anticipated leave whenever such leave is foreseeable. Failure to do so may result in denial of the leave request. Upon approval by the employee's Department Director, Human Resources Director, and City Manager, the leave of absence shall be granted subject to the following conditions:

Family and Medical Leave Act of 1993 (FMLA)

Effective August 5, 1993 all City employees who have been employed at least twelve (12) months and have worked at least 1250 hours in the previous twelve (12) months are entitled to twelve (12) weeks of FMLA leave. Such leave may be used for (a) purposes of birth, adoption, foster care; or (b) medical care of the employee, employee's spouse, legal dependent or parent with a serious medical condition. The Human Resources Director shall be responsible for

notifying employees of approved FMLA leave and what their rights and responsibilities are under the law.

During FMLA leave, the employee may choose to use appropriate paid leave or take the time off without pay. For purposes of this section, a female employee shall be presumed to be personally ill or disabled for a period of six (6) weeks following the birth of her child, unless otherwise documented by her physician, and entitled to use sick leave.

A "serious health condition" for purposes of FMLA leave is an illness, injury, impairment, or physical or mental condition that involves either in-patient care in a hospital, hospice, or residential medical care facility or continuing treatment by a health care provider. It does not include short-term conditions or voluntary or cosmetic treatments which are not medically necessary. The City may require a doctor's certification of the employee's or employee's family member's health condition and may require a second opinion (at the City's expense) prior to authorizing a leave of absence. The City may also require medical re-certifications every thirty (30) days to justify the need for ongoing time off or modified work schedules.

An eligible employee is entitled to a total of twelve (12) weeks of FMLA leave per twelve (12) month period measured backward from the date an employee uses any FMLA leave; provided, however, that husbands and wives who are both employed by the City are only entitled to an aggregate of twelve (12) weeks of FMLA leave per twelve (12) month period. An employee who is on FMLA leave is guaranteed the same or comparable job when he/she returns to work.

An eligible employee may, with the City's consent, take intermittent leave or have a modified work schedule due to the arrival of a new child as long as the cumulative leave does not exceed twelve (12) weeks per calendar year. For serious health conditions, intermittent leave or a reduced work schedule is allowed if medically necessary; provided, however, that the City may transfer an employee temporarily to an equivalent position to accommodate such a work schedule.

The City will continue to pay its portion of individual and family health and dental insurance premiums during FMLA leave. However, if leave beyond the initial twelve (12) weeks is approved, the employee will be responsible for paying his/her insurance premiums outlined below.

An employee who fails to return to work following FMLA leave for a reason other than a serious health condition or other circumstances beyond the control of the employee shall be required to reimburse the City for all health insurance premiums paid for said employee during the leave.

An employee on unpaid FMLA leave shall not earn sick, annual or holiday leave.

Other Family and Medical Leave

All City employees who have exhausted FMLA leave or are not otherwise entitled to such leave, may be granted a family or medical leave of absence for a period not to exceed six (6) months. During such time, the employee may choose to use appropriate paid leave or take the time as leave without pay. For purposes of this section, a female employee shall be presumed to be personally ill or disabled for a

period of six (6) weeks following the birth of her child, unless otherwise documented by her physician, and entitled to use sick leave.

An employee granted such leave is guaranteed the same or comparable job when he/she returns to work.

An employee on unpaid leave shall be responsible for paying his/her entire insurance premiums and shall not earn sick, annual or holiday leave.

Any employee who fails to report to duty promptly at the expiration of his/her leave of absence will be considered as having voluntarily resigned and will be removed from City service. Questions regarding Family and Medical Leave should be directed to the Human Resources Department.

Parental Leave for the Involvement in Children's Schools

Chapter 509 of the 1993 Session Laws amended G.S. 95-28.3 to require at least four (4) hours of leave per year so that a parent, guardian or any person standing "in loco parentis" of a school-aged child may attend or otherwise be involved in activities at the child's school under the following conditions:

The leave shall be a mutually agreed upon time between the employer and employee;

The employer may require an employee to provide the employer with a written request for the leave at least 48 hours before the time desired for the leave; and

The employer may require that the employee furnish written verification from the child's school that the employee attended or was otherwise involved at that school during the time of leave.

The definition of school includes public and private schools, church schools, and preschools. It also includes day care facilities as defined under G.S. 110-86. Please note that this leave is not guaranteed paid leave, but rather guaranteed time-off. Employees wishing to take this leave would have to use accrued annual or compensatory leave in order to be paid.

Sec. 48. Leave Without Pay.

Upon the recommendation of the department director and with the approval of the Human Resources Director and City Manager, an employee may be granted a leave of absence without pay not to exceed one (1) year for reasons including but not limited to personal or family illness, completion of education, or special work which would permit the City to profit by the experience gained or the work performed. Nothing in this section shall prohibit an employee from being granted an extension to a leave of absence without pay provided it is approved by the employee's department director, the Human Resources Director and the City Manager.

During the period of leave without pay, the employee shall be responsible for paying his/her entire insurance premiums and shall not accumulate additional leave (i.e. sick, annual, holiday) or be eligible for a merit increase.

As with any other leave of absence, an employee's failure to report to duty promptly at the expiration of a leave of absence will be considered as a voluntary resignation and the employee will be removed from City service.

Sec. 49. Military Leave. (Revised 2/7/99)

Military leave shall be granted to all employees who are members of a reserve component of the United States Armed Forces or National Guard for annual training, monthly drills, war or national emergency. Proof of any military duty/orders shall be submitted to the employee's supervisor or department director within thirty (30) calendar days of the date of the assignment, except in the case of national emergency.

For purposes of paragraphs (I) and (II) below, employees granted leave with pay will be paid the difference between their base military pay and their current City salary provided military pay is the lesser.

In each case, the following policy and procedures will be in effect:

Annual Military Training:

An employee who has been ordered to active duty for annual training, including monthly drills and service schools, shall be granted military leave. Such leave shall be with pay for up to fifteen (15) scheduled work days per Federal fiscal year (i.e. one hundred twelve and a half (112.5) hours for those employees on a 37.5 hour work week, one hundred twenty (120) hours for those employees both on a 40 hour work week and a 14 or 28 day work cycle, one hundred sixty-five (165) for those employees on a 16 day or district 16 day work cycle.. Additional leave will be charged to accrued annual leave, holiday leave, compensatory time, or taken without pay, at the employee's option.

National Emergency/War:

An employee who has been ordered to active duty for a national emergency or war shall be granted military leave. Such leave shall be with pay for up to one hundred eighty (180) calendar days. In the event a national emergency or war continues beyond one hundred eighty (180) calendar days, the City Manager may extend paid leave for a reasonable period of time, not to exceed an additional one hundred eighty (180) calendar days, unless additional time is authorized by City Council.

Insurance: When an employee is called to active duty for national emergency or war, the City shall continue the reservist and his/her family on the City benefit plan(s) which the employee participates in. During such period of time, the reservist shall be responsible for paying any premium(s) due through payroll deduction or other arrangements made with the Human Resources Department. Health and dental coverage shall be continued until the reservist is covered by the Military Health Insurance Plan (i.e. CHAMPUS) - generally a period of thirty (30) calendar days; however, if the reservist chooses, (s)he may continue individual and/or family coverage pursuant to current COBRA regulations. In the event a reservist discontinues individual and/or family coverage during active duty, the reservist and his/her family member (s) may be re-enrolled subject to current HIPAA regulations upon the reservist's return from active duty and presentation of a Certificate of Honorable Discharge from the United States Government.

Leave: Annual, sick and holiday leave shall be earned by the employee as if the employee had been working.

Re-employment: Upon release from active duty, the reservist must immediately notify his/her supervisor when (s)he will return to work. All reinstatement employment rights under the

Veterans Re-employment Rights Law shall apply.

Sec. 50. Civil Leave.

All employees may be granted time off for a reasonable period of time, to be established by the department director, during their regular work shift so that they may vote in national, state and local

elections. This leave is only available to employees whose normal work hours would not otherwise allow them an opportunity to vote.

Civil leave with pay will also be granted when an employee is called for jury duty, or as a witness for the federal or state government or a subdivision thereof, provided documentation is provided to his/her department director for each day served. No charge shall be made against the employee's accrued leave, and the employee may keep any fees received for such duty.

When an employee's obligation for jury or witness duty ends one hour or more from the end of that employee's normal work shift, the employee shall return to work for the remainder of his/her work shift.

Exception: An employee who is the plaintiff or defendant in private, civil or criminal litigation shall not be entitled to paid civil leave, but may take annual or compensatory leave or leave without pay for necessary court appearances with the approval of his/her department director.

Sec. 51. Inclement Weather.

Employees are always encouraged to put their personal safety first. However, unless otherwise approved by the City Manager, any absence due to inclement weather shall be charged to leave of the employee's choosing, except sick leave, but including leave without pay.

Sec. 52. Bereavement Leave. (Revised - 2/7/99)

Full-time employees may be granted two (2) consecutive work days of bereavement leave with pay due to the death of a member of his/her immediate family or significant other.

For purposes of this section, "immediate family" includes spouse, mother, father, legal guardian, son, daughter, sister, brother, grandparent, or grandchild and any combinations of half-or step- and in-law that can be derived from those named. "Significant other" is defined as a person with whom the employee cohabits and maintains an intimate relationship regardless of marital status.

If additional time off is needed, employees may request to use accrued annual leave, compensatory time, or leave without pay.

Employees who need time off to attend the funeral of a coworker, close personal friend or relative not included as "immediate", may request the use of accrued annual or compensatory time or time without pay.



ARTICLE 5. TYPES OF SEPARATION.

Sec. 53. Resignation.

An employee who desires to terminate his/her employment with the City must give written notice to his/her immediate supervisor two (2) weeks prior to his/her last intended day of employment. An employee who fails to provide the required notification will be given an unsatisfactory rehire status unless the failure is due to circumstances beyond the employee's control (i.e. death in family).

Final pay shall also be reduced for charges for equipment, uniforms, etc. that have not been paid for or returned.

An employee who is absent from work for three (3) consecutive work shifts without reporting to his/her supervisor shall be considered as having voluntarily resigned and shall be removed from City service.

Sec. 54. Reduction in Force.

An employee may be laid off when a reduction in force becomes necessary. Section 35 (Reduction in Force) delineates the method of reduction in force. [See also, Sec. 35, Reduction in Force; Rule 6, Reduction in Force, Asheville Civil Service Rules and Regulations.]

Sec. 55. Disability.

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 either the employee or the City, but in all cases must be accompanied by medical evidence. The City may require an examination at its expense and performed by a physician of its choice. Before an employee is separated for disability, a reasonable effort shall be made to locate alternative positions within the City service for which the employee may be qualified.

Sec. 56. Retirement.

An employee who meets the conditions set forth under the provisions of the North Carolina Local Governmental Employees' Retirement System may retire and receive all benefits earned under the retirement plan.

Sec. 57. Dismissal.

An employee may be involuntarily dismissed in accordance with the provisions and procedures of the City Personnel Policy.

Sec. 58. Death.

Separation shall be effective as of the date of death. All compensation due shall be paid in accordance with the provisions of the City Personnel Policy.

**ARTICLE 6. UNSATISFACTORY JOB PERFORMANCE
AND DETRIMENTAL PERSONAL CONDUCT.**

Sec. 59. Discipline - In General.

An employee may be disciplined, up to and including dismissal, due to unsatisfactory job performance or inappropriate personal conduct. Those actions which result in suspension of ten (10) or more consecutive work shifts, demotion or dismissal may be taken only by the appointing authority, and only after consultation with the Human Resources Director.

When disciplinary action is warranted, employee supervisors are authorized to issue an oral/written reprimand or a suspension without pay not to exceed one (1) work shift. Division heads are further authorized to issue a suspension without pay not to exceed five (5) work shifts. Only the department director may impose discipline which involves suspension without pay exceeding five (5) work shifts, or which involves probation, demotion or termination. [See also, Rule 11, Discipline - In General, Asheville Civil Service Board Rules and Regulations.]

Sec. 60 Unsatisfactory Job Performance-Defined.

Unsatisfactory job performance includes any aspect of an employee's job which is not performed as required to meet the standards set by the department director. An employee whose job performance is unsatisfactory may be disciplined up to and including dismissal, by his/her department director provided procedures outlined in the City Personnel Policy have been complied with and the employee's job performance remains unsatisfactory. Unsatisfactory job performance may be handled through the performance evaluation process and/or the disciplinary process.

An employee whose work is unsatisfactory over a period of time shall be notified by his/her supervisor in what way his/her work is deficient and what he/she must do if work is to be satisfactory. Such notification may take the form of oral or written warnings; provided, however, that the employee shall have at least one (1) documented counseling session with his/her supervisor which provides detailed feedback on performance deficiencies and outlines improvements necessary for satisfactory performance. The final warning must be received from the employee's department director, who must serve notice upon the employee that corrected performance must take place immediately to avoid disciplinary action up to and

including dismissal. The supervisor and the department director should record the dates of their discussions with the employee, the performance deficiencies discussed and the corrective actions recommended.

The following examples relating to unsatisfactory job performance are representative of, but not limited to, those sufficient for discipline, up to and including dismissal:

1. Inefficiency, negligence or incompetence in performance of duties;
2. Careless, negligent or improper use of City property or equipment;
3. Physical or mental incapacity to perform duties, as certified by a physician [See also, Sec. 55, Disability.];
4. Discourteous treatment of the public or other employees;
5. Absence without approved leave;
6. Improper use of leave privileges;
7. Habitual pattern of failure to report for duty at the assigned time and place;
8. Failure to complete work within time frames established in work plans or work standards.

[See also, Rule 12, Unsatisfactory Job Performance - Defined, Asheville Civil Service Board Rules and Regulations.]

Sec. 61. Inappropriate Personal Conduct-Defined.

Inappropriate personal conduct is behavior of such a detrimental nature that the functioning of the City may be impaired, the safety of persons or property may be threatened, or the laws of the government may be violated. Examples are listed but are not limited to the following:

- a. Fraud in securing appointment for City employment;
- b. Conviction of a felony or the entry of nolo contendere or no contest thereto;
- c. Falsification of records for personal profit, to grant special privileges or to maintain or obtain employment/promotion within the City service;
- d. Willful misuse of City funds;
- e. Willful and wanton damage to City property or destruction of private property while on City time;
- f. Willful and wanton acts which endanger the lives and property of others;
- g. Possession of unauthorized firearms or other lethal weapons on the job;

- h. Brutality in the performance of duties;
- i. Engaging in incompatible employment or servicing a conflicting interest [See also, 27, Outside or Dual Employment; Sec. 28, Conflict of Interest.];
- j. Acceptance of gifts in exchange for "favors" or "influence" [See also, Sec. 28, Conflict of Interest.];
- k. Engaging in prohibited political activities [See also, Sec. 30, Political Activity, and Sections 19-21 Asheville Civil Service Law];
- l. Manifest signs of insubordination towards a superior officer ("resistance to orders or rules");
- m. Use of alcoholic beverages, controlled substances, or any other substance which would impair the employee's physical/mental capabilities while on duty;
- n. Sexual or racial harassment of a co-worker, applicant for employment, client or member of the public;
- o. Engaging in any explicit sexual activity while on duty.

[See also, Rule 13, Inappropriate Personal Conduct - Defined, Asheville Civil Service Board Rules and Regulations.]

Behavior determined to constitute detrimental personal conduct in violation of the City of Asheville Personnel Policy may result in immediate disciplinary action up to and including dismissal.

Sec. 62. Investigative Suspension.

Investigation status is used to temporarily remove an employee from work status and may be used for the following reasons:

To investigate allegations of performance or conduct deficiencies that would constitute just cause for disciplinary action.

To avoid disruption of the work place and/or to protect the safety of persons or property.

To provide time to schedule and conduct a pre-disciplinary conference.

Investigative suspension with pay does not constitute a disciplinary action as defined in this article. Management must notify an employee in writing of those reasons for investigative suspension not later than the second working day after beginning of the suspension. Investigative suspensions that last beyond (30) calendar days must be approved by the City Manager and in no case shall the suspension extend beyond (60) calendar days.

Sec. 63. Pre-disciplinary Conference.

A pre-disciplinary conference shall be held in accordance with Section 69 prior to the involuntary demotion, suspension of ten (10) or more consecutive working shifts or dismissal of a full-time permanent employee.

Sec. 64. Employee Appeal.

Any full-time permanent employee who is disciplined may appeal the disciplinary action in accordance with the City's grievance procedure and the Asheville Civil Service Law. [See also, Article 7, Grievance Procedure; Rule 13, Employee Appeal, Asheville Civil Service Board Rules and Regulations; Sec. 14, Asheville Civil Service Law.]

Any supervisor who discourages an employee from filing his/her grievance and/or demonstrates reprisal towards an employee who has filed a grievance shall be subject to immediate dismissal.

ARTICLE 7. GRIEVANCE PROCEDURE

Sec. 65. Policy.

It is the policy of the City of Asheville that all employees be treated fairly and equitably in all respects. Employees who feel they have not been so treated have a right to present an individual or group grievance to appropriate management officials for prompt consideration and equitable decision. Employees may orally or in writing, formally or informally, present complaints to their supervisors, starting with their immediate supervisor and proceeding through supervisory channels to the department director and City Manager.

When more than one grievance is filed regarding the same subject matter, each person in a supervisory position, from the immediate supervisor to the City Manager, who is charged with the responsibility of making a determination in the grievance procedure shall determine whether to hear such grievances jointly or separately. The determination regarding whether to proceed with the grievances jointly or separately may be based upon that person's determination of the most efficient manner in which to handle the grievances. In the event that the supervisor or City Manager shall determine that the rights of an employee who has filed a grievance would be prejudiced by a joint hearing, that employee's grievance shall be heard separately.

Before presenting their complaint(s) to their supervisor(s), employees who file a group grievance shall select no more than six (6) employee representatives from among those filing the grievance. Each person in a supervisory position, from the immediate supervisor to the City Manager, who is charged with the responsibility of making a determination in the grievance procedure shall hear such a grievance through the group representatives; however, nothing in this Section shall prohibit a supervisor from hearing the grievance with the entire group of grievants.

It is the intent of this procedure that employees and their representatives be unimpeded and free from restraint, coercion, discrimination or reprisal in exercising this right of appeal. The filing of a grievance by any employee will not be construed as reflecting unfavorably on his or her good standing, performance, loyalty or desirability for continued service with the City of Asheville. Any employee may discuss any matter with his/her supervisor, other levels of supervision and/or the Human Resources

Department without invoking the formal grievance procedure outlined in this Article. [See also, Section 19A-1, Policy, Asheville Code of Ordinances.]

Sec. 66. Grievance Defined.

A "grievance" shall be defined as a complaint or dispute of an employee relating to his/her employment. Examples of problems for which grievances may be filed include, but are not limited to the following:

1. Unfair interpretation or application of policies governing personnel practices;
2. Unfair or inappropriate disciplinary actions;
3. Unsafe physical facilities, surroundings, materials, or equipment;
4. Unfair or discriminatory disciplinary or supervisory practices;
5. Unjust treatment by fellow workers;
6. Unreasonable work requirements;
7. Sexual or racial harassment;
8. Safety or health matters;
9. Acts of reprisal as the result of utilizing the grievance procedure; or
10. Any other grievance related to conditions of employment.

[See also, Section 19A-2, Grievance Defined, Asheville Code of Ordinances.]

Sec. 67. Purposes of Grievance Procedure.

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

1. Providing employees with a procedure by which their complaints can be considered promptly, fairly and without reprisal;
2. Encouraging employees to express themselves about the conditions of work which affect them as employees;
3. Promoting a better understanding of policies, practices and procedures which affect employees;
4. Increasing the confidence that employees have that personnel decisions are in accordance with established, fair and uniform policies and procedures.

[See also, Section 19A-3, Purposes of Grievance Procedure, Asheville Code of Ordinances.]

Sec. 68. Procedures.

The following steps shall be followed in all employee grievances. All grievances must be in writing, either in letter or memo form or using a City of Asheville grievance form, dated and signed. Upon receipt of a written grievance, the supervisor shall immediately forward a copy of it and any subsequent decisions regarding the matter to the grievant's department director and Human Resources Director. **EXCEPTION:** In the event an employee feels that he/she has been subject to sexual or racial harassment by his/her supervisor, the employee may refer the matter directly to the employee's department director or the Human Resources Director.

Prior to the first formal step of the grievance procedure, an employee and his/her supervisor are encouraged to discuss the problem and seek to resolve it informally. This meeting should be scheduled by the employee within fifteen (15) calendar days of the incident or action giving rise to the problem.

Step 1. If an informal meeting does not resolve the problem, the employee may file a written grievance within ten (10) calendar days of the initial discussion; provided, however, that in the event an informal discussion of the grievance has not taken place, an employee shall file his/her written grievance within fifteen (15) calendar days of the incident or action giving rise to the complaint. Ongoing conditions are not subject to this deadline. The supervisor shall respond, in writing, within ten (10) calendar days of receipt of the written grievance. In some cases, the supervisor may feel that a second meeting would be constructive. If so, the supervisor may schedule a meeting with the employee within seven (7) calendar days after receiving the written grievance, fairly investigate the matter and render a written decision on the grievance within seven (7) calendar days of the meeting. In the event an employee has filed a grievance with a supervisor who lacks authority to resolve it, the supervisor shall immediately forward the grievance to the employee's or other appropriate supervisor to ensure that the grievance is acted on in a timely manner.

Step 2. If the employee is not satisfied with the Step 1 decision, the employee may file an appeal with his/her division head within seven (7) calendar days following receipt of the Step 1 decision. The division head shall respond, in writing, within ten (10) calendar days of the receipt of the written grievance. In some cases, the division head may feel that a second meeting would be constructive. If so, the division head may schedule a meeting with the employee within seven (7) calendar days after receiving the written grievance, fairly investigate the matter and render a written decision on the grievance within seven (7) calendar days of the meeting. In the event an employee has filed a grievance with a division head who lacks authority to resolve it, the division head shall immediately forward the grievance to the employee's department director to insure that the grievance is acted on in a timely manner.

Step 3. If the employee is not satisfied with the Step 2 decision, the employee may file an appeal with his/her Department Director within seven (7) calendar days following receipt of the Step 2 decision. The Department Director shall within ten (10) calendar days hold a meeting with the employee for the purpose of discussing the grievance fully. The department director will render a written decision within ten (10) calendar days of the meeting.

Step 4. If the employee is not satisfied with the step 3 decision, the employee may file a written appeal with the City Manager within seven (7) calendar days following receipt of the step 3 decision. Within fifteen (15) calendar days of receipt of such request, the City Manager shall hear matters pertinent to the grievance. In so doing, the Manager may appoint a

grievance committee to assist him in resolving the grievance. The role of such a committee shall be advisory and not binding on the City Manager. Within thirty (30) calendar days of said hearing, the decision of the City Manager shall be reduced to writing and transmitted to the aggrieved employee by hand-delivery or certified mail, return receipt requested. The decision shall also be distributed to the aggrieved employee's department director and the Human Resources Department. In cases where the employee has been discharged, suspended, reduced in rank, transferred against his/her will, or denied any promotion or raise in pay to which he/she would be entitled to, the decision of the City Manager may be appealed to the Asheville Civil Service Board as specified in Step 5 below. In all other cases, the decision of the City Manager is final.

Step 5. If the employee is not satisfied with the step 4 decision, the employee may appeal his/her grievance to the Asheville Civil Service Board. Such appeal shall be filed with the City Clerk within ten (10) days following receipt of the step 4 decision. The City Clerk shall set the matter for hearing before the Asheville Civil Service Board at a date not less than five (5) and no more than fifteen (15) days from the Clerk's receipt of such notice. If timely appealed, the Asheville Civil Service Board shall only hear the grievance of a City employee who has been discharged, suspended, reduced in rank, transferred against his/her will, or denied any promotion or raise in pay to which he/she would be entitled to, to determine whether or not the action complained of is justified. If the Board determines that the act or omission complained of is not justified, the Board shall order the City to rescind whatever action the Board has found to be unjustified and may order the City to take such steps as are necessary for a just conclusion of the matter before the Board.

Step 6. If the employee is not satisfied with the Step 5 decision, the employee may appeal his/her grievance to the Buncombe County Superior Court for a trial *de novo*. Such appeal shall be filed with the Clerk of Superior Court of Buncombe County within ten (10) days of the receipt of the Board's decision.

[See also, Section 19A-4, Procedures, Asheville Code of Ordinances.]

Sec. 69. Departmental Pre-disciplinary Conference.

Purpose of Conference. A departmental pre-disciplinary conference shall be afforded any full-time permanent employee whose conduct/performance may result in his/her involuntary demotion, suspension without pay for more than ten (10) consecutive work shifts, or dismissal from the City service. At such conference, the employee shall be given the opportunity to respond to the alleged inappropriate conduct/unsatisfactory performance, and the information received from the employee shall be used by the department director in determining whether or not there are reasonable grounds to support the action of suspension, demotion or dismissal.

Procedure for Conference. The employee shall be given a minimum of forty-eight (48) hours notice of the date, time, location and subject matter of the pre-disciplinary conference. The notice shall be written and acknowledged as received by the employee, or by his/her department/division head in cases where the employee refuses to acknowledge receipt. The pre-disciplinary conference shall be attended by and limited to (1) the employee, (2) the supervisor(s) of the employee, (3) the department director and (4) a representative from the Human Resources Department when requested by the employee or department director. Such Human Resources representative shall be the Human Resources Director or his/her designee. In addition, either party may be represented by counsel. The conference shall be administrative in nature, and full opportunity will be afforded the employee to respond to the issues. At the conclusion of

the conference, the employee will be advised as to when a decision will be made regarding the actions, if any, to be taken in the matter. The department director shall deliver a written decision to the employee within ten (10) calendar days.

Failure to Appear. In the event the employee is duly notified and fails to appear for the pre-disciplinary conference, he/she shall forfeit the right to such a conference.

Procedure for Appeal to the City Manager. Any permanent full-time employee who is suspended without pay for more than ten (10) consecutive work shifts, demoted or dismissed pursuant to this Article, shall have the right to appeal directly to the City Manager under the grievance procedure. Such an appeal shall be requested in writing within twelve (12) calendar days of the departmental action being appealed. All provisions of the grievance procedure regarding appeal to the City Manager and the Asheville Civil Service Board shall be applicable.

[See also, Section 19A-5, Departmental Pre-disciplinary Conference, Asheville Code of Ordinances.]

ARTICLE 8. PERSONNEL POLICY

Sec. 70. Personnel Records Maintenance

The Human Resources Department shall be responsible for maintaining such personnel records as are necessary for the proper administration of the personnel system. The following information must be kept on each City employee:

Name

Age;

Date of original employment;

Current position title;

Current salary;

Date and amount of most recent increase or decrease in salary;

Date of most recent promotion, demotion, transfer, suspension, separation, or other change in position classification;

Department and office to which the employee is currently assigned; and

certification form I-9 pursuant to the Immigration Control and Reform Act.

Sec. 71. Access to Personnel Records

As required by North Carolina General Statute 160A-168, any person may have access to the information listed in Sec. 70 above for the purpose to inspection, examination and copying during regular business

hours, subject only to such rules and regulations for the safekeeping of public records as the City Council may adopt.

All information contained in an employee's personnel file, other than the information listed in Sec. 70 above, will be maintained as confidential in accordance with the requirements of North Carolina General Statute 160A-168 and shall only be open to inspection in the following instances:

The employee or his/her duly authorized agent may examine all portions of the employee's personnel file, except (1) letters of reference solicited prior to employment; and (2) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his/her patient.

All licensed physician designated in writing by the employee may examine the employee's medical record.

A City employee having supervisory authority over the employee may examine all materials in the employee's personnel file.

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

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 information is deemed necessary by the Human Resources Director or his/her designee to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability. Provided, however, that the Human Resources Department may release the name, address and telephone number from the personnel file for the purpose of assisting in a criminal investigation.

An employee may sign a written release to be placed with his/her personnel file, that permits the Human Resources Department 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.

The City Manager, with concurrence of the City Council, may inform any person of the employment or the non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a City employee and the reasons for that personnel action. Before releasing the information, the Manger shall determine in writing that the release is essential to maintaining public confidence in the administration of City services. This written determination shall be retained in the office of the Manager or the City Clerk, and is a record available for public inspection and shall become a part of the employee's personnel file.

Each individual requesting access to confidential information must submit satisfactory proof of identity to the Human Resources Director or his/her designee prior to receiving said information.

Sec. 72. Penalty for Permitting Access to Confidential Information.

Any public official or employee who knowingly and willingly permits any person to have access to any confidential information contained in a personnel file, in violation of this Article, is guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed \$500.

Sec. 73. Penalty for Examining and/or Copying Confidential Materials without Authorization.

Any person who is not authorized to have access to information designated as confidential, who knowingly and willingly examines in its official filing place, removes or copies such information is guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in an amount which exceeds \$500.

Sec. 74. Remedies of Employee's Objecting to Material in Personnel File.

An employee who objects to material in his/her personnel file on the grounds that it is inaccurate or misleading may place a statement relating to the material considered to be inaccurate or misleading in his/her personnel file. The employee may also seek removal of such material(s) in accordance with the City's grievance procedure.
