

CITY OF KINGS MOUNTAIN

PERSONNEL POLICY

Adopted by Resolution: JULY 1, 2002

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

<u>Article</u>	<u>Title</u>	<u>Page</u>
<b>Article I</b>	<b>General Provisions</b>	
	Section 1. Purpose of the Personnel Policy	6
	Section 2. Responsibilities of the City Council	6
	Section 3. Responsibilities of the City Manager	6
	Section 4. Application of Policies, Plans, Rules, and Regulations	7
	Section 5. Communication of Changes in Policies	7
	Section 6. Departmental Rules, Regulations and Procedures	7
	Section 7. Definitions	8
	Section 8. Employment At Will	10
<b>Article II</b>	<b>Position Classification Plan</b>	
	Section 1. Purpose	10
	Section 2. Use of the Position Classification Plan	11
	Section 3. Admin of the Position Class Plan	11
	Section 4. Adoption of the Position Class Plan	11
	Section 5. Request for Reclassification	11
<b>Article III</b>	<b>Pay Plan</b>	
	Section 1. Definition	12
	Section 2. Administration and Maintenance	12
	Section 3. Starting Salaries	12
	Section 4. Trainee Designation and Provision	12
	Section 5. Probationary Pay Increases	13
	Section 6. Performance Evaluations	13
	Section 7. Salary Effect of Promotions, Demotions,	

	Transfers, and Reclassifications	13
Section 8.	Salary Effect of Salary Range Revisions	15
Section 9.	Effective Date of Salary Change	15
Section 10.	Overtime Pay Provisions	15
Section 11.	Standby Pay and Call-back	16
Section 12.	Acting Assignment	18
Section 13.	Payroll Deductions	20
Section 14.	Payroll Procedures	20

#### **Article IV Recruitment and Employment**

Section 1.	Equal Employment Opportunity Policy	20
Section 2.	Implementation of Equal Employment Opportunity Policy	20
Section 3.	Recruitment, Selection, and Appointment	21
Section 4.	Probationary Period	22
Section 5.	Promotion	22
Section 6.	Demotion	23
Section 7.	Transfer	23

#### **Article V Conditions of Employment**

Section 1.	Work Schedule	23
Section 2.	Personal Appearance	23
Section 3.	Political Activity	24
Section 4.	Outside Employment	25
Section 5.	Dual Employment	27
Section 6.	Employment of Relatives/Fraternization	28
Section 7.	Harassment	29
Section 8.	Workplace Violence	32
Section 9.	Acceptance of Gifts and Favors	33
Section 10.	Safety	34
Section 11.	Safety Responsibility	35
Section 12.	Use of City Supplies & Equipment	35
Section 13.	Attendance	36
Section 14.	Inclement Weather	36
Section 15.	Pregnant Worker's Fairness Act	39
Section 16.	Driver Eligibility Guidelines	40

#### **Article VI Employee Benefits**

Section 1.	Eligibility	43
Section 2.	Group Health Insurance	43
Section 3.	Retiree Health Insurance	43
Section 4.	Group Life Insurance	44

Section 5.	Other Optional Group Insurance Plans	44
Section 6.	Retirement	44
Section 7.	Supplemental Retirement Benefits	45
Section 8.	Workers' Compensation	45
Section 9.	Unemployment Compensation	45
Section 10.	Continuing Education	46
Section 11.	Longevity Pay	46
Section 12.	Employee Assistance Program	46

**Article VII     Holidays and Leaves of Absence**

Section 1.	Policy	48
Section 2.	Holidays	48
Section 3.	Holidays: Effect on Other Types of Leave	48
Section 4.	Holidays: Compensation When Work Is Required	49
Section 5.	Annual Leave	49
Section 6.	Annual Leave: Use by Probationary Employees	49
Section 7.	Annual Leave: Accrual Rate	49
Section 8.	Annual Leave: Maximum Accumulation	50
Section 9.	Annual Leave: Manner of Taking	50
Section 10.	Annual Leave: Payment Upon Separation	50
Section 11.	Annual Leave: Payment Upon Death	50
Section 12.	Sick Leave	51
Section 13.	Sick Leave: Accrual Rate and Accumulation	51
Section 14.	Sick Leave: Medical Certification	52
Section 15.	Family and Medical Leave	52
Section 16.	Medical and Family Leave – Certification	57
Section 17.	Leave Without Pay	58
Section 18.	FMLA Without Pay: Retention and Continuation of Benefits	58
Section 19.	Workers' Compensation Leave	59
Section 20.	Vaccination Policy	59
Section 21.	Military Leave	59
Section 22.	Reinstatement Following Military Service	60
Section 23.	Jury Duty/Civil Leave	60
Section 24.	Shared Leave	60

**Article VIII     Separation and Reinstatement**

Section 1.	Types of Separations	61
Section 2.	Resignation	61
Section 3.	Reduction in Force	62

Section 4.	Disability	62
Section 5.	Voluntary Retirement	62
Section 6.	Death	62
Section 7.	Dismissal	62
Section 8.	Reinstatement	62
Section 9.	Rehiring	63
<b>Article IX</b>	<b>Unsatisfactory Job Performance and Detrimental Personal Conduct</b>	
Section 1.	Disciplinary Action	63
Section 2.	Unsatisfactory Job Performance Defined	64
Section 3.	Detrimental Personal Conduct	65
Section 4.	Substance Abuse Policy	66
Section 5.	Smoking, Vaping, & Other Tobacco	71
Section 6.	Travel Policy	72
Section 7.	IT Policy	74
Section 8.	Employee Appeal	107
<b>Article X</b>	<b>Grievance Procedures and Adverse Action Appeal</b>	
Section 1.	Policy	107
Section 2.	Grievance Defined	107
Section 3.	Purposes of the Grievance Procedure	107
Section 4.	Procedure	108
<b>Article XI</b>	<b>Personnel Records and Reports</b>	
Section 1.	Public Information	110
Section 2.	Access to Confidential Records	110
Section 3.	Personnel Action	111
Section 4.	Records of Former Employees	111
Section 5.	Remedies of Employees Objecting to Material In File	111
Section 6.	Penalties for Permitting Access to Confidential Records	111
Section 7.	Examining and/or Copying Confidential Material Without Authorization	112
Section 8.	Destruction of Records Regulated	112
<b>ARTICLE XII.</b>	<b>Security.....</b>	<b>112</b>



## CITY OF KINGS MOUNTAIN, NC

### PERSONNEL POLICY

	<b>Original Adoption</b>	<b>Latest revision</b>
<b>Resolution:</b>	7/1/2002	2/25/2025
<b>Councilmembers:</b>	Carl B. Devane	Phillips Dee
	James L. Guyton	Michael E. Butler
	William C. Kelly	Thomas B. Hawkins
	Richard K. Moore	Shearra Miller
	Howard H. Shipp	M. Jay Rhodes
	Harold D. Spears	Annie C. Thombs
	Melvin E. White	Jimmy R. West
<b>Mayor:</b>	Rick Murphrey	Rob Wagman
<b>City Manager:</b>	Jimmy R. Maney	V. Todd Carpenter
<b>HR Director:</b>	Pat D. Blanton	Rachel Whitaker

## **ARTICLE I. GENERAL PROVISIONS**

### **Section 1. Purpose of the Personnel Policy**

It is the purpose of this resolution and the rules and regulations set forth to establish a fair and uniform system of personnel administration for all employees of the City under the supervision of the City Manager. Nothing in this policy creates an employment contract or term between the City and its employees. This policy is established under authority of Chapter 160A, Article 7, of the General Statutes of North Carolina.

### **Section 2. Responsibilities of the City Council**

The City Council shall be responsible for establishing and approving personnel policies; the position classifications 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.

### **Section 3. Responsibilities of the City Manager**

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.

The City Manager may appoint a Human Resources Director who shall assist in the preparation and maintenance of the position classification plan and the pay plan, and perform such other duties in connection with a modern personnel program as the manager shall require. All matters dealing with personnel shall be routed through the office of the Human Resources Director who shall maintain a complete system of personnel files and records.

The City Manager shall:

- Recommend rules and revisions to the personnel system to the City Council for consideration;
- Make changes as necessary to maintain an up-to-date and accurate position classifications plan;
- Prepare necessary revisions to the pay plan;
- Determine which employees shall be subject to the overtime provisions of FLSA;

- 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;
- 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;
- Develop and coordinate training and educational programs for City employees;
- Investigate periodically the operation and effect of the personnel provisions of this chapter; and
- Perform such other duties as may be assigned by the City Council not inconsistent with this Chapter.

#### **Section 4. Application of Policies, Plan, Rules, and Regulations**

The personnel policy and all rules and regulations adopted pursuant thereto shall be binding on all City employees. The City Manager, City Attorney, members of the City Council and advisory boards and commissions will be exempted except in sections where specifically included. An employee violating any of the provisions of this resolution shall be subject to appropriate disciplinary action, as well as prosecution under any civil or criminal laws which have been violated. The City Manager, City Attorney, members of the City Council, and advisory boards and commissions will be subject to Resolution 09-41 Adopting A Code of Ethics for the Kings Mountain Council.

#### **Section 5. Communication of Changes in Policies**

Any changes in these policies will be communicated to Department Directors. The Department Directors shall be responsible for communicating any changes in policy, rules or regulations to all employees under their supervision or direction.

#### **Section 6. Departmental Rules, Regulations and Procedures**

Due to the particular personnel and operational requirements of the various departments of the City, each department is authorized to establish supplemental written rules, regulations and procedures applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the Department Director, the City Manager, and shall not in any way conflict with the provisions of these policies, but shall be considered as a supplement to this Chapter. Departmental rules, regulations and procedures must be kept in a place where they are easily accessible to all employees in the department. Should there be a perceived conflict between Departmental Rules, Regulations and Procedures and the Personnel Policy, the Policy shall prevail.

## **Section 7. Definitions**

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

**Adverse Action** An involuntary demotion, an involuntary reduction in pay, an involuntary transfer, a suspension without pay, a layoff or a dismissal, etc.

**Anniversary Date** The employee's original date of employment with the City.

**Cost-of-Living Increase (COLA)** An annual adjustment that may be made by the City Council to all pay ranges.

**Disciplinary Action** Any action which may be taken by a department Director that impacts adversely upon an employee and that is taken when an employee fails to follow the rules, regulations and/or procedures of his department or these policies. The types of disciplinary actions which may be taken include oral reprimand or counseling session, written reprimand, suspension, demotion and dismissal. The denial of any merit increase, promotion or advancement shall not be regarded as disciplinary action.

**Elected Officials** The governing body, consisting of Mayor and members of the City Council. Refers also to a separate class of employees pertaining to benefits.

**Grievance** Any matter of concern or dissatisfaction arising from the working conditions of an employee, subject to the control of the City. The term "grievance" shall not be interpreted to mean negotiation of wages, salaries, and/or fringe benefits; nor shall it be interpreted as an opportunity to contradict the intent of the personnel policy.

**Hiring Rate** The salary paid an employee when hired into City service which shall be in keeping with the position classification plan (pay plan).

**Immediate Family (Other)** The following relatives of an employee: spouse, child, mother, father, sister, brother, grandparent, grandchild, legal guardian; plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named.

Other Family will include any relationship where the degree of closeness may suggest that problems might be created within the work unit, or that the public's perception of fair play in providing equal opportunity for employment to all qualified individuals would be violated. This may include significant others, engaged couples, roommates, other relatives who grew up together, or similar relationships.

**Job Description** A written description of the essential factors that distinguish one job from another; it may include, but is not limited to, the job title, examples of work performed, equipment operated and minimum and desirable qualifications for the position.

**Maximum Salary Range** The maximum salary authorized by the pay plan for an employee within an assigned salary grade.

**Merit Increase** An increase in salary above the standard job rate based on service that exceeds the standard and/or expected performance of the assigned position.

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

**Regular Full-time Employee** A regular/full-time employee working 30 hours/week or more who has successfully completed the designated probationary period.

**Position Classification Plan** A plan approved by the City council that assigns classes (positions) to the appropriate pay grade.

**Performance Evaluation System** An annual review of an employee's performance, designed to provide feedback and development as well as facilitate fair and equitable pay decisions, also recognizing performance as one of the basis for pay increases within the established pay range.

**Promotion** The reassignment of an employee to an existing position or classification in the City having a higher salary range than the position or the classification from which the reassignment is made.

**Probationary Employee** An employee appointed to a regular/full or part-time position that has not yet successfully completed the designated probationary period.

**Reclassification** The reassignment of an existing position from one class to another based on changes in job content.

**Temporary Employee** An individual appointed to serve in a position for a definite duration, normally not to exceed twelve months.

**Temporary Position** A position for which the duties and responsibilities are required to be met for a specific short period of time, normally not to exceed twelve (12) months, and which may or may not require attendance by a person for a full work day and/or work week.

**Trainee** An employee either hired or promoted who does not meet all of the requirements for the position. During the training period the employee is on probationary status.

**Transfer** The reassignment of an employee from one position or department to another.

**Work Week** Unless otherwise designated by the City manager, the work week shall be from Sunday, 1 minute after midnight, through Saturday at midnight.

## **Section 8. Employment at Will**

The state of North Carolina is a Right to Work state and employment with the City of Kings Mountain is considered Employment-At-Will.

Your employment with the City of Kings Mountain is a voluntary one and is subject to termination by you or the City at will, with or without cause, and with or without notice, at any time. Nothing in the policies as stated in the Personnel Policy Manual shall be interpreted to be in conflict with or to eliminate or modify in any way the employment-at-will status of the City of Kings Mountain employees.

This policy of employment-at-will may not be modified by any officer or employee and shall not be modified in any publication or document. The only exception to this policy is a written employment agreement approved at the discretion of the City Council.

The Personnel Policies are not intended to be a contract of employment or a legal document. While in the normal course of events, the City of Kings Mountain intends to follow the practices set forth in these materials/policies, certain situations may occur in which the City will not follow the procedures outlined. In such situations, the City has and shall continue to have the power to take appropriate action including, but not limited to: changing compensation and working conditions, and/or terminating the employment of an employee with or without cause.

## **ARTICLE II. POSITION CLASSIFICATION PLAN**

### **Section 1. Purpose.**

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

The classification plan shall consist of:

- A grouping of positions in classes which are approximately equal in difficulty and/or responsibility which call for the same general qualifications, and which can be equitably compensated within the same range of pay under similar working conditions;
- Class titles descriptive of the work of the class;
- Written specifications for each class of positions; and
- An allocation list showing the class title of each position in the classified service.

## **Section 2. Use of the Position Classification Plan**

The classification plan is to be used:

- As a guide in recruiting and examining applicants for employment;
- In determining lines of promotion and in developing employee training programs;
- In determining salary to be paid for various types of work;
- In determining personnel service items in departmental budgets; and
- In providing uniform job terminology.

## **Section 3. Administration of the Position Classification Plan**

The City Manager 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 and shall periodically review portions of the classification plan and recommend appropriate changes to the City Council.

## **Section 4. Adoption of the Position Classification Plan**

The position classification plan shall be adopted by the City Council and shall be on file with the City Clerk. New positions shall be established upon recommendation of the City Manager who, assisted by the Human Resources Director, shall either allocate the new position into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be allocated.

## **Section 5. Request for Reclassification**

Any Department Director who considers the position in which an employee is classified to be improper shall submit a request in writing for reclassification to the Human Resources Director. Upon receipt of such request, the Human Resources Director, shall study the request, determine the merit of the reclassification, and recommend any necessary revisions to the classification and pay plan to the City Manager.

## **ARTICLE III. THE PAY PLAN**

### **Section 1. Definition**

The pay plan includes the basic salary schedule and the “Assignment of Classes to Grades and Ranges” adopted by the Council. The salary schedule consists of steps for minimum or beginning, maximum, and intervening rates of pay for all classes of positions, and a designation of the standard hours in the workweek for each position.

### **Section 2. Administration and Maintenance**

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

The pay plan is intended to provide equitable compensation for all positions, 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 Human Resources Director shall make comparative studies of all factors affecting the level of salary ranges and will recommend to the City Manager such changes in salary ranges as appear to be pertinent. This includes increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the City Council.

### **Section 3. Starting Salaries**

All persons employed in positions approved in the position classification plan shall be employed at the minimum designated salary for the classification in which they are employed; however, exceptionally well-qualified applicants may be employed above the minimum of the established salary range.

### **Section 4. Trainee Designation and Provisions**

Applicants being considered for employment or City employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred by the City Manager to a “trainee” status. In such cases, a plan for training, including a time schedule must be prepared by the department Director. “Trainee” salaries may be no more than two grades below the minimum designated 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.

If the training is not successfully completed to the satisfaction of the City, 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.

### **Section 5. Probationary Pay Increases**

Employees hired, promoted, or reclassified into the minimum designated rate of the pay range shall receive a salary increase within the range of approximately 2.5% upon completion of six months of satisfactory service, following a favorable Performance Evaluation and provided the employee is not still on probation. Employees hired or promoted into a rate of pay above the minimum rate of the pay range may be considered for a probationary pay increase upon successful completion of the probationary period and following a favorable Performance Evaluation.

### **Section 6. Performance Evaluation**

Department Directors should conduct Performance Evaluation Conferences with each employee annually as determined by the Human Resources Director.

### **Section 7. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications**

**Promotions/Certifications** An employee who is promoted to a position having a higher salary range may receive a pay increase of approximately 5% or an increase to the minimum of the new pay range, whichever is higher. In exceptional cases the City Manager may approve a higher percentage increase.

The purpose of the promotion pay increase is to recognize and compensate the employee for taking on increased responsibility. Once the promoted employee has satisfactorily completed a 6 month probationary period, the employee will usually receive a 2.5% increase.

Upon completion of a required course for which an employee is awarded a certification (which may or may not be required by the State of North Carolina) the employee may be considered for a 2.5% salary increase.

## Water Resources Career Development Program

**Purpose:** To encourage and reward employees to gain additional relevant knowledge for their career paths and appropriate to the essential duties of their primary position.

- Training and certifications must be approved by the department director prior to signing up for the class.
- Incentive increases will be awarded the beginning of the pay period following the date of achieving certification.

➤ **OPERATORS:**

- Eligible Departments: Water Plant, WWTP, Water/Sewer
- Incentives are offered for certifications by the NC Department of Environmental Quality. Each employee is expected to obtain one certification as a minimal qualification for the position. Certifications will be eligible for the following Career development increases:

<b>Water: 5% Increase for each</b> <ul style="list-style-type: none"> <li>• "C" Surface</li> <li>• "B" Surface</li> <li>• "A" Surface</li> <li>• Physical</li> <li>• Chemical</li> </ul>	<b>Wastewater: 5% increase for each</b> <ul style="list-style-type: none"> <li>• WW-1</li> <li>• WW-2</li> <li>• WW-3</li> <li>• WW-4</li> <li>• Physical Chemical</li> <li>• Biological</li> </ul>	<b>Distribution and Collection: 2.5% increase for each of the following:</b> <ul style="list-style-type: none"> <li>• Cross Connection</li> </ul> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"><u>Collections:</u></td> <td style="width: 50%;"><u>Distribution</u></td> </tr> <tr> <td>CS-1</td> <td>C</td> </tr> <tr> <td>CS-2</td> <td>B</td> </tr> <tr> <td>CS-3</td> <td>A</td> </tr> <tr> <td>CS-4</td> <td></td> </tr> </table>	<u>Collections:</u>	<u>Distribution</u>	CS-1	C	CS-2	B	CS-3	A	CS-4		<b>Backflow 2.5% increase</b>
<u>Collections:</u>	<u>Distribution</u>												
CS-1	C												
CS-2	B												
CS-3	A												
CS-4													
ORC – 5%	ORC – 5%	ORC – 5%	ORC – 5%										

➤ **MECHANICS & LAB PERSONNEL**

- Eligible positions include WTP & WWTP Plant Maintenance Mechanic, Lab Technician
- Incentives are offered for certifications by the NC One Water. While these certifications are not regulatorily required in order to perform the duties of the job, the additional knowledge and understanding can be beneficial.
- Each employee is expected to obtain one certification as a minimal qualification for the position. Additional certifications will be eligible for the following increases. The certifications that will be eligible for career development incentives are:

<b>Maintenance Mechanic Certificate 2.5% Each:</b> <ul style="list-style-type: none"> <li>• Class 2</li> <li>• Class 3</li> </ul>	<b>Wastewater Lab Analyst Certificate 2.5% Each:</b> <ul style="list-style-type: none"> <li>• Class 2</li> <li>• Class 3</li> <li>• Class 4</li> <li>• Certify as a Lab Supervisor</li> </ul>
---	---

**Demotions** When an employee is demoted to a position for which s/he is qualified, the salary shall be set at the rate in the lower pay range which provides the smallest decrease in pay if action is not for cause. If the current salary is within the new range, the employee's salary may be retained at the previous rate. If the demotion is for cause the salary may be decreased at least (approximately) 5%, or to the midpoint of the new range.

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

**Reclassifications** An employee whose position is reclassified to a class having a higher salary range may receive a pay increase of approximately 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 may remain the same. If the employee's salary is above the maximum established for the new range, the salary of that employee may be maintained at the current level until the range is increased above the employee's salary.

#### **Section 8. Salary Effect of Salary Range Revisions**

When a class of positions is assigned to a higher salary range, employees in that class may receive a pay increase of at least approximately 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 may 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 may be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

#### **Section 9. 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.

#### **Section 10. Overtime Pay Provisions**

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 Director.

To the extent that local government jurisdictions are so required, the City will comply with the Fair Labor Standards Act (FLSA). The City Manager 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 police and fire personnel may be different and are designated in more detail below). Hours worked beyond the FLSA established limit will be compensated in either compensatory leave time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, only hours actually worked shall be considered; in no event will vacation, holiday, or sick leave be included in the computation of hours worked for FLSA purposes.

Compensatory leave time requires approval by the Department Director. Any accrued compensatory time earned must be used before annual leave is taken. In addition, any compensatory time earned should be taken prior to the end of the following month.

**\*\*Fire personnel are eligible for overtime compensation for hours worked beyond 212 hours in a 28-day cycle and Police personnel are eligible for overtime compensation for hours worked beyond 171 hours in a 28-day work cycle.**

**\*\*Whenever practical, 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.**

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.

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

### **Section 11. Stand-by and Call-back Pay**

The City provides a continuous twenty-four 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.

Some employees occupy positions in work units which, by the very nature of their

work, require that any of the employees in the unit could be called to return to work at any time for a number of reasons. This is especially true when the operational roles or the nature of the work group is to provide direct public service due to (before, during and following) weather-related events or other significant emergency situations. In these situations, employees required to remain at home to wait to be called for return to work are classified as “stand-by” or “engaged to wait” under the Fair Labor Standards Act. They are entitled to additional compensation. This compensation is either regular or overtime work hours, depending upon the number of work hours which have already accrued for the timekeeping period.

**Stand-by.** Non-exempt employees required to be on “stand-by” duty will be paid for eight hours of work for each week of stand-by time they serve. Hours actually worked while on stand-by are calculated beginning when the employee responds to the call and are added to the regular total of hours worked for the timekeeping period.

Stand-by time is defined as that time when an employee must remain near an established telephone. During a 24-hour period, first call equals one hour pay or actual time, whichever is greater. Second call during the same 24 hour period, equals actual time worked including travel to and from the work. Employees assigned to stand-by duty are required to have a working phone service, and to respond to calls within 15 minutes.

Department Directors will assure that standby duties will be rotated between qualified personnel. Stand-by report sheets are to be submitted to the Human Resources Department for verification of overtime and actual time worked.

In the event the regularly scheduled “stand-by” employee cannot be reached, or in the event the job requires additional assistance, another employee may be called-back into work. This is commonly known as a Call-back.

**Call-back.** Non-exempt employees, not scheduled on stand-by, will be guaranteed a minimum payment of one hour’s wages for being called back to work outside of normal working hours. Hours actually worked while on call-back are calculated beginning when the employee responds to the call and are added to the regular total of hours worked for the timekeeping period.

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.

The stand-by provisions for Fire and Police personnel may be different and will be defined in the Departmental Rules, Regulations and Procedures for the department.

Other factors related to Stand-by/Call-back are as follows:

1. If for any reason a stand-by/call-back employee becomes unable to remain in an on-call status or report to their assignment due to an emergency, the employee must notify the department designee as soon as possible.
2. The employee must be capable of performing all assigned duties, and be in a state of “work readiness”. Work readiness is defined as a state, whether physical, mental or emotional, in which an individual is ready, willing, and able to perform their assigned duties and task competently and safely
3. If the standby employee believes that additional personnel are needed to complete the job safely s/he is to contact the department designee as soon as possible.

If a Stand-by/Call-back employee is not physically able to perform ALL the duties of the task due to physical or mental limitations OR, has had any medication which would impair judgement and ability, OR has consumed alcohol even in limited amounts, THEN, s/he shall notify their proper department designee and request s/he be removed from the list. If they are unable or have not taken the time to contact the department designee, s/he shall inform the person calling them in for duty that they are not able to respond to this call and ask that the caller contact the next designated employee on the Stand-by/Call-back Communication List.

## **Section 12. Acting Assignment (Fill-in) Pay**

The City recognizes that occasionally when an employee vacates a position or is out of work for an extended period of time that another employee will need to assume the absent employee’s duties to ensure service is not interrupted. To provide for effective management of City services and supervision of staff during an employee’s absence, a Department Director may request additional compensation for an employee who meets the minimum requirements, and assumes the work of a position of greater value in addition to his/her own work assignments during the absence. In order to recognize the additional effort required, the City may authorize Acting Pay. This policy outlines those situations and conditions for which Acting Pay may be authorized.

In order to be eligible to receive additional compensation for acting in a higher capacity, the employee must meet the minimum requirements of the higher position. The position in which the employee is acting must be either 1) vacant due to an employee separation and remaining vacant for at least 10 working days, or 2) the

incumbent employee must be absent from work for at least 10 working days. For the acting employee the following conditions must be met:

**A. Vacant Position** – The employee acting in a higher capacity position is eligible, at the department’s initiation and with Human Resources’ prior approval, to receive Acting Pay.

**B. Absent Employee** – The employee acting in the stead of an employee absent due to illness, injury or long-term offsite training, is eligible for this Acting Pay, at the department’s initiation and with Human Resources’ advance approval.

An employee acting in the stead of another employee on special assignment within the department or light duty assignment is not eligible for Acting Pay.

The acting employee must assume the responsibilities of the higher-level position in addition to his own regularly assigned responsibilities. Subordinates and other employees will not be compensated for assuming the acting employee’s responsibilities (no “trickle-down” effect).

The acting employee must assume the responsibilities of the higher-level position for all of the work days in the period of absence.

The employee will normally not receive Acting Pay for more than six months. Requests for extensions require approval of the City Manager.

### **Procedures**

The Department Director who determines Acting Pay is warranted based on circumstances that meet the conditions of this policy will send a Personnel Action Form in writing to the Human Resources Department. When possible this form should be submitted to Human Resources fifteen (15) calendar days in advance of the beginning of any Acting Assignment. Notification should only be made to the employee after written approval is provided by Human Resources.

Departments will consider all qualified candidates for Acting Pay positions.

HR will provide notification to the Department Director with the decision and the Department Director can notify the employee.

The Acting Pay must begin at the start of a full payroll period.

The Acting Pay supplement will be calculated as 5% of the acting employee’s base pay. Acting Pay will be halted upon the hire of the vacant position or the return to work of the absent employee.

Requests for extensions of Acting Assignments and Acting Pay beyond six months must be submitted in writing and require approval of the Human Resources Director and the City Manager.

### **Section 13. Payroll Deduction**

Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made as deemed appropriate based upon determination by the City Manger as to capability of payroll equipment and the nature of the deduction.

### **Section 14. Payroll Procedure**

All regular employees shall be paid in accordance with FLSA guidelines on a bi-weekly basis.

All payment will be made via direct deposit. Any errors will be corrected on the next payroll following identification of the error.

## **ARTICLE IV. RECRUITMENT AND EMPLOYMENT**

### **Section 1. Equal Employment Opportunity Policy**

It is the policy of the City to foster, maintain, and promote equal employment opportunity. The City shall select employees on the basis of the applicant's qualifications for the job and award them, with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, sex, race, color, religion, national origin, disability, political affiliation, marital status, sexual orientation, gender identity, genetic information, physical or mental disability or any other non-job related factor, except when certain physical and mental requirements are Bona-Fide Occupational Qualifications (BFOQ).

### **Section 2. Implementation of Equal Employment Opportunity Policy**

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination.

The City operates on the premise that a skilled, diverse work force provides more effective services for the citizens. The purpose of this policy is to affirm the City's commitment to equal opportunity in all matters relating to hiring, assignment, promotion and other personnel actions to help ensure a competent and diverse

workforce. Decisions on employment are based on qualifications, experience and suitability for the job; compensation decisions are based on performance; and other personnel-related decisions are based on the City's core values of honesty, integrity, respect, and stewardship.

### **Section 3. Recruitment, Selection and Appointment**

**Recruitment Sources** When position vacancies occur, Human Resources will publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be provided to recruitment sources. 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.

There are also a number of Federal and State laws that govern the employment process including Title VII of the Civil Rights Act of 1964, The Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, the Immigration Reform and Control Act of 1986, and the Genetic Information Nondiscrimination Act of 2008. This policy explains the rules and process the City follows when selecting employees to ensure compliance with applicable laws and policies.

**Application for Employment** All persons expressing interest in employment with the City shall be required to complete the City's job application or other designated recruitment source.

**Application Reserve File** Applications shall be kept in an inactive reserve file for a period of two years, in accordance with records retention guidelines. Separate applications must be submitted for each job opening. Applications are no longer considered active after the job is filled.

**Selection** Human Resources shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience of each candidate based on the qualifications required for the position, including criminal history. All selection devices administered by the City shall be valid measures of job performance and in keeping with local, state and federal law.

**Appointment** Before any commitment is made to an applicant either internal or external, the Department Director shall make recommendations to the Human Resources Director for the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Human Resources Director shall review the Department Director's recommendations for appointments and starting salary for all applicants and then submit to the City Manager for final approval.

#### **Section 4. Probationary Period**

An employee appointed or promoted to a regular position shall serve a minimum probationary period of six (6) months.

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 if any. A summary of this discussion should 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.

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.

When probationary disciplinary action including demotion, reassignment or dismissal is recommended, there must exist a good reason accompanied by proper documentation. Then the demotion, reassignment or dismissal must be approved by the Department Director, the Human Resources Director and the City Manager.

#### **Section 5. Promotion**

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the City's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant may be appointed to the vacant position by the City Manager, providing the employee is a regular full-time employee and has been employed by the city for a period of no less than six (6) months and has satisfactorily completed his/her probationary period in their present job. Part-time and seasonal employees must have been employed for 90 days prior to being eligible to bid on an open job.

The employee (candidate) must also be chosen and approved by the Department Directors involved, the Human Resources Director and the City Manager. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Candidates shall apply for promotions by completing the Position Bid Form

and following the same application process as external candidates. All promoted employees shall serve a six month probationary period; however, in certain situations, a promoted employee may not be eligible for a probationary increase. All promotions must be approved by the City Manager who has the authority to make an exception to the above requirements.

### **Section 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.

### **Section 7. Transfer**

Transfer is the movement of an employee from one position to a position in a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall apply for the transfer using the usual application/bid process. The Department Director wishing to transfer an employee to a different department or classification shall make a recommendation to the City Manager with the consent of the receiving Department Director. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this chapter. At the discretion of the receiving Department Director an employee who has successfully completed a probationary period may be transferred into the same job classification without serving another probationary period. A transfer within the same job classification will not normally be eligible for an end of probationary increase.

All transfers and increases are subject to the approval of the City Manager.

## **ARTICLE V. CONDITIONS OF EMPLOYMENT**

### **Section 1. Work Schedule**

Department Directors 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. Any deviation of work schedules shall be submitted in writing to the Human Resources Director and forwarded to the City Manager for approval.

### **Section 2. Personal Appearance-Uniforms**

All employees shall dress in a manner that is appropriate for the position and presents a positive image for the City of Kings Mountain. Department Directors are

responsible for identifying those employees who shall wear City issued uniforms and/or special equipment. Employees who are assigned uniforms shall wear the entire uniform and should wear the uniform when on duty or traveling to or from work.

It shall be the policy of the City of Kings Mountain to provide its employees with uniforms that give the look of professional appearance and provide identification as a City Employee.

Each employee is responsible for the proper care and handling of these uniforms. In addition, employees shall utilize these uniforms for the intended purpose in accordance with City procedures.

Eligible employees will be issued uniforms and may be responsible for the partial payment of the uniform expense. The cost will be determined by the Department.

Each employee shall be responsible for maintaining his or her uniform in good order by turning rental items in regularly for cleaning as well as self- maintenance on any items that are not rented.

Each employee is responsible for keeping up with each piece of uniform issued to them. They will be responsible for purchasing replacement items that are lost. Uniforms damaged, destroyed or worn out in the line of duty will be repaired or replaced by the department. It is the responsibility of each employee to report any maintenance needed to rental uniform items to their respective department Director.

Uniforms damaged or destroyed through negligence or abuse shall be repaired or replaced by the employee responsible.

All uniforms must be returned to the employee's department Director upon termination prior to receiving last paycheck.

### **Section 3. Political Activity**

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

- Engage in any political or partisan activity while on duty

- Use official authority or influence for the purpose of interfering with or affecting the result or nomination of an election for office
- Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds or labor for political or partisan purposes
- Coerce or compel contributions from another employee of the City for political or partisan purposes
- Use any supplies or equipment of the City for political or partisan purposes
- Be a candidate for nomination or election to office under the City Charter

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

#### **Section 4. Outside Employment**

The City of Kings Mountain regards employment with the City as the primary occupation that will take precedence over other occupational pursuits in which the employee might be involved.

Because employees' salaries are paid from tax generated revenues and fees, the City regards the employees' obligations to the taxpayer as being of utmost importance. For this reason, the employee is expected to consider employment with the City of Kings Mountain as his or her primary job. In addition, the City requires that other occupational or business pursuits not be in conflict with City employment or detract from the efficiency of work performance.

This policy applies to all employees.

Outside Employment for the purpose of this policy is explained as: Self-employment, business ownership as a sole proprietor or partnership, or any employment for salaries, wages, tips or commissions other than the position held with the City of Kings Mountain.

- Employees may not engage in outside employment without prior approval of the City. Outside employment will not be approved if it creates a conflict of interest or an appearance of a conflict of interest as

determined by the City Manager. Further, employees may not engage in outside employment if the outside employment hinders their ability to perform the responsibilities of their City position.

- Employees may not use City sick leave, shared leave, administrative leave, health or dental insurance benefits as a result of any injury or illness arising out of, or in the course of, any outside employment.
- Failure to seek approval for outside employment as outlined below or to maintain such employment when not approved shall be cause for corrective action up to and including dismissal from employment.
- Inappropriate use of sick leave, shared leave, administrative leave, health or dental insurance benefits as a result of outside employment will also subject an employee to corrective action up to and including dismissal from employment.
- Every employee should have an updated Outside Employment form in their personnel file if they are engaging in outside employment. In the event that an employee is not engaging in outside employment, then the employee and supervisor must complete and sign the form confirming that fact.
  - All newly hired employees must have an outside employment form on file prior to beginning their employment with the City.
  - Active employees must complete an updated outside employment form at least annually in conjunction with the employee's annual performance appraisal, and whenever a change occurs in their outside employment activities.

As long as the above criteria are met, employees may engage in outside employment with a current contractor or vendor of the City as long as the contractor is organized as a not for profit entity.

#### **Outside Employment Procedures:**

- Prior to the commencement of the job or occupation, any employee considering outside employment shall inform, in writing, the immediate supervisor of his or her intention.

- The supervisor will inform the appropriate Department Director who will review the outside employment and assure that:
  - The nature of the work will not create a conflict of interest or an appearance of a conflict of interest with the City position;
  - The schedule or total hours worked will not conflict with the performance of the employee's duties with the City;
  - If the employee is serving as a superintendent, assistant department director, department director, assistant city manager or City manager, then the employee may not be employed by or be the sole proprietor or a partner of a firm that is a current contractor or vendor of the City;
  - If the employee is not serving in any of the positions identified above, then the employee may be employed by a firm that is a current contractor or vendor of the City. The employee must be paid an hourly wage;
  - The employee is not performing work on City property, or on behalf of the City as a part of his/her outside employment;
  - The outside employment does not require the use of City equipment, materials or supplies; and
  - The outside employment does not require the employee to use confidential information acquired through their employment with the City.

The decision of whether or not to approve the outside employment must be made by the Department Director. The approved form will then be sent to Human Resources and kept in the employee's Personnel File.

The City Manager may at any time either deny, suspend or revoke outside employment.

### **Section 5. Dual Employment**

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

## **Section 6. Employment of Relatives**

The City believes it can best achieve effective and efficient service delivery only in an atmosphere of fairness and equity and where there is no perception of favoritism. This policy is intended to avoid circumstances that could create problems within the work unit or could undermine the public's perception of fair play in providing equal opportunity for employment to all qualified individuals. For these reasons, the City has placed limitations on the employment of relatives. This policy is not intended to prohibit relatives from working for the City.

Two (2) immediate members of a family (as defined below) shall not be employed in any City of Kings Mountain positions if such employment will result in one being in the chain of supervision of the other, nor where one member occupies a position which has influence over the other's employment, promotion, salary administration, or other related management or personnel considerations.

Immediate Family - The following relatives are considered immediate family of an employee: spouse, child, mother, father, sister, brother, grandparent, grandchild, legal guardian; plus the various combinations of half, step, in-law, and adopted relationships that can be derived from those named. For the purposes of this policy, COKM may also include significant others or engaged couples.

Relatives of Elected Officials as defined in the above policy, may not be hired by the City. Current employees would not be forced to resign upon the election of a family member to City Council.

This rule shall not apply to employment relationships which existed prior to January 1, 2023 involving members of the same family. Any changes in employment or family relationships after January 1, 2023 shall be covered by this policy.

New employees must report existing relationships on the employment application. Current employees are responsible for reporting any new relationships to Human Resources once a dating relationship begins. An employee who fails to report any existing relationship as defined above will be subject to corrective action up to and including dismissal.

Fraternization is defined as having a dating or relationship of a sexual nature with subordinates. Fraternization is a violation of City policy. Additionally, employees of City Administration and the HR Director are prohibited from fraternization with any City employee. Violations will be investigated and are subject to disciplinary action, up to and including, termination.

## Section 7. Harassment

It is the policy of the City of Kings Mountain to maintain a workplace that is free from harassment and other behaviors that threaten the health, safety, productivity and well-being of its employees and others. This policy covers harassment, especially unlawful harassment based on a person's protected status such as one's age, color, ethnicity, familial status, gender or sex, gender expression, gender identity, genetic information, marital status, mental or physical disability, military status, national origin, political affiliation, race, religion or sexual orientation. In addition, this policy prohibits workplace bullying regardless if it is based on a person's protected status.

The procedures established here are intended to help the City of Kings Mountain maintain a workplace free from harassment and other unwelcome conduct. This policy establishes expectations of employees, supervisors, management and officials as it relates to preventing and correcting harassment in the workplace.

Harassment is defined but not necessarily limited to the following:

- Unlawful harassment – unwelcome intimidation, ridicule, insults, comments, or physical conduct based on a person's protected status where:
  - an employee's acceptance or rejection of such conduct explicitly or implicitly forms the basis for an adverse employment decision affecting the employee; or
  - the conduct is sufficiently severe or pervasive as to create a hostile work environment or to alter the terms, conditions or privileges of the employee's employment.
- Bullying – Repeated, unreasonable actions of individuals (or a group) directed towards an employee (or a group of employees), which intimidates and creates a risk to the physical and/or emotional health and safety of the employee(s). Bullying is unwanted offensive and malicious behavior which undermines an individual or group through persistently negative attacks. There is typically an element of vindictiveness and the behavior is calculated to undermine, patronize, humiliate, intimidate or demean the recipient.
- Hostile work environment – A hostile environment occurs when comments, conduct or actions of another are so severe or pervasive that they create an unwelcome, intimidating and offensive work environment.
- Ostracism – is being deliberately left out of a group by exclusion and/or rejection.

- Retaliation – Punishment of an employee for engaging in legally protected activity such as making a complaint of harassment or participating in workplace investigations. Retaliation can include employment actions such as dismissal, refusal to hire, promotion, discipline, salary reduction, job or shift reassignment and other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references or increased surveillance.

**Responsibilities of All Employees:**

- Refrain from engaging in harassing, bullying, ostracizing, retaliating or other unwelcome and offensive conduct.
- Report harassment, bullying, ostracism or other offensive conduct by employees or others in the workplace to the appropriate official within 24 hours (one business day) or as soon as possible.
- Understand your rights and responsibilities under the City’s Harassment Policy.
- Participate in periodic training opportunities required regarding the City’s Harassment Policy.
- Cooperate fully and honestly in any inquiry or investigation of alleged harassment.
- Refrain from retaliating against any person for reporting harassment, or for assisting in any investigation of alleged harassment.

**Responsibilities of the City Manager or her/his designee:**

- Ensure employees are aware of and have ready access to this policy.
- Remind all employees periodically of their responsibilities under this policy.
- Distribute this policy to all new employees hired by the City.
- Develop and deliver periodic training opportunities for all employees concerning this policy and its requirements.
- Receive reports of alleged violations of this policy, and direct further investigation into such reports, as appropriate and necessary.
- Maintain a written record of reports made and actions taken pursuant to this policy. These records will be maintained in a secure location.
- Evaluate supervisors and managers under his/her direct supervision on their performance regarding this policy.

## **Responsibilities of All Supervisors and Directors:**

- Ensure a workplace free of harassment, bullying, ostracism, retaliation or other offensive conduct.
- Ensure that employees are aware of this policy and its requirements.
- Act promptly and effectively to stop harassing, hostile or abusive conduct of which they are aware.
- Notify Human Resources Director or the City Manager of reported or observed harassing conduct within 24 hours or one business day.
- Evaluate supervisors and managers under their direct supervision on their performance regarding this policy.

Harassment (whether on-site or off-site) in the workplace undermines the integrity of the employment relationship, upsets morale and interferes with productivity. Harassment is unacceptable and will not be tolerated. Employees violating this policy will be subject to corrective action up to and including dismissal from employment.

The following actions or inactions will also be considered a violation of this policy and will be subject to corrective action up to and including dismissal from employment:

All reports of alleged harassment will be treated with discretion. However, confidentiality cannot be guaranteed as it is necessary to share information when conducting an investigation or taking appropriate steps to protect employees.

An accused employee may be placed on administrative leave while the Human Resources Director investigates an allegation of harassment. The complainant should not be moved to another worksite or placed on administrative leave as it may appear to be retaliation for having brought a complaint.

## **PROCEDURES**

- If an employee believes that there is immediate danger to themselves or anyone else, then s/he should immediately call 9-1-1 and request police assistance first.
- If no immediate danger exists, the employee should attempt to resolve the matter with the harasser.
  - The employee should inform the harasser in a polite, but firm manner that the behavior is unwelcome and offensive, and that it must stop immediately.
- If the employee is uncomfortable with addressing the harasser or if the offending behavior continues, then within 24 hours or one business day the employee must report the harassment to one of the following persons:
  - His/her supervisor or manager or Department Director;

- Human Resources Director;
- the City Manager
- Any supervisor or manager who either observes harassment or receives a report of harassment must notify the Human Resources Director or the City Manager within 24 hours or one business day.

The Human Resources Director will investigate all complaints of harassment.

- At the conclusion of the investigation, the Human Resources Director will notify the complainant of the investigation's findings.
- The Human Resources Director will recommend appropriate remedial action, including corrective action where fitting.
- The Human Resources Director will communicate the findings and recommendations to the City Manager.
- The Human Resources Director will follow-up with the complainant to ensure that no harassment continues and that he or she is not retaliated against.

## **Section 8. WORKPLACE VIOLENCE POLICY**

The City of Kings Mountain desires to provide its employees with a place of employment that is free from physical attack, threats, and menacing and harassing behaviors. Therefore, the City prohibits its employees from engaging in acts of violence, threats, and harassment especially whenever the act will likely cause physical or psychological harm or the act damages City or employee property.

**WEAPONS** In furtherance of this policy, the City of Kings Mountain prohibits its employees (with the exception of law enforcement) from carrying or possessing any weapon while working at the City or while operating or riding as a passenger in a City vehicle. Ordinarily, the mere possession of a small pocketknife, mace, pepper spray, or similar item/s will not be considered a violation of the policy. However, the inappropriate display or use of such items will be considered a violation.

This policy applies to all employees of the City and covers situations involving employees, customers, vendors, or patrons of the City.

For purposes of this policy, the following definitions shall apply:

- Violence is any hostile physical or other harm.
- A Physical Attack is any hostile physical or future intent to cause physical or other harm. An expression may constitute a threat without regard to whether the party communicating has the present ability to do harm and without regard to whether the expression is contingent, conditional, or future.

- Harassment is behavior or communication designed or intended to intimidate, denigrate, menace, or frighten another person. (See Harassment Policy)
- Property Damage is behavior or conduct that causes or contributes to the destruction or damage of property.
- A Weapon shall include (but not limited to) a knife, metallic knuckles, stun gun, explosive device, razor, gun or other firearm.

These definitions and examples are not meant to be exhaustive, and certain types of conduct not listed here might be determined to constitute conduct prohibited by this policy. Prohibited conduct will result in disciplinary action up to and/or including dismissal from employment.

### **Section 9. Acceptance of Gifts, Benefits and Favors**

No official or employee of the City shall solicit or 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.

Allowed Gifts, Benefits, Favors and Gratuities: (This list is not meant to be a complete or exhaustive listing.)

- Cards, thank you notes and other written forms of thanks and recognition.
- Gifts or monetary donations of any value so long as they are accepted on behalf of the City and acknowledged in writing by the City Manager or his/her designee.
- Gifts received at any event sponsored or jointly sponsored by the City of Kings Mountain.
- Gifts, Food, Beverage and Entertainment at any conference, meeting, seminar, open house or other event so long as the event is open to the public or a substantial number of different jurisdictions so that the city employee is not being singled out.
- Food and Beverage provided for the enjoyment of all of the employees in the work unit so long as the benefit is not given to curry favor or for benefit of the supplier.
- Souvenirs and promotional items valued at \$30.00 or less
- Perishable Gifts (e.g. flowers) that are displayed for the enjoyment of all employees in a work unit.
- City authorized employee discounts available to all employees.
- Souvenirs or monetary gifts of any value won at a raffle that is held at a conference, open house, educational seminar or other event so long as the event is open to the public or a substantial number of different jurisdictions so that the City employee is not being singled out.

- Travel, lodging and entertainment only if the employee is responsible for recruiting industry, trade, travel and tourism and the travel is for that purpose.
- Travel and lodging for an employee to attend a conference, user group or panel discussion only if the paying party is completely independent of a current or potential vendor of the City.
- Awards and honoraria when recognizing an employee's achievement or service to a profession or organization. Must be of a nominal value not to exceed \$30.00.

All Other Benefits, Gifts and Gratuities are prohibited unless specifically approved by the City Manager.

If a Prohibited Gift is Received, the employee will either:

- Return to sender, if practical, or
- Donate to the City of Kings Mountain, or
- Purchase the item/s/supplies, paying fair market value, for the benefit of the City.

In all cases where prohibited gifts are received, the gift must be acknowledged in a letter to the donor explaining the item was accepted on behalf of the City of Kings Mountain and signed by the City Manager or his/her designee.

Violations of this policy will subject the employee to corrective action, up to and including dismissal from employment.

At his/her sole discretion and judgment, the City manager may interpret and apply this policy in accordance with the specific circumstances.

## **Section 10. Safety**

Safety is the responsibility of both the City and City employees. It is the policy of the City to establish a safe work environment for employees. The City shall have an established safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department Directors 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.

## **Section 11. Safety Responsibility**

All employees shall be responsible for personal safety.

Department Directors and supervisors shall share the responsibility for:

- Providing safe work procedures and environments;
- Implementing safety policies and programs;
- Informing and training employees in safe work habits;
- Detecting and correcting unsafe practices and conditions;
- Investigating accidents and preparing accident reports;
- Encouraging employees to report unsafe conditions and to submit practical safety suggestions.

Likewise each City employee is responsible for:

- Following Safety procedures
- Developing and maintaining safe work habits;
- Promptly reporting all accidents and injuries;
- Pointing out dangerous practices and working conditions;
- Assisting with investigations of accidents and unsafe actions;
- Taking proper care of safety equipment;
- Wearing proper clothing and avoiding loose sleeves, cuffs, rings, bracelets and long hair around moving machinery;
- Wearing and taking care of proper personal protective equipment
- Knowing the location and use of fire extinguishers, the location of fire exits and the best method for reporting a fire.

## **Section 12. Use of City Supplies and Equipment**

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

Vehicles owned by the City shall be cared for by an employee in the same responsible way that s/he would care for his/her own. Such vehicles are to be used exclusively for official City business, except by special approval of the City Manager, an employee may be directed to take the vehicle home when doing so shall serve the best interest of the City. Use of City vehicles for commuting to and from work shall usually be limited to an employee who is subject to emergency call-back work.

No individual shall operate or ride in a City vehicle except as is required for the conduct of official City business.

**Section 13. Attendance / Absence Notification**

Because City services are essential and continuous, an employee shall avoid unnecessary absences and tardiness. Attendance and punctuality are important responsibilities of the employee which may influence his or her future eligibility for a pay increase or for promotion.

When unable to report for work due to illness or accident off the job, the employee shall be required to call his supervisor in advance to advise him/her when illness prevents reporting to work, and when the employee expects to be late for work because of unusual and unavoidable circumstances. When unable to do so prior to the shift, s/he will contact the Supervisor at the first reasonable opportunity.

If an employee is away from his job for two consecutive work days without notice, it shall be assumed that the employee has resigned and forfeited any claim to terminal pay for accumulated vacation.

**Section 14. Inclement Weather**

It is the policy of the City of Kings Mountain to provide essential health and safety services during a severe weather, disaster or emergency event. These services shall be provided in a way that best promotes the welfare of the citizens of Kings Mountain and demonstrates a commitment to the safety of all City employees. It may become necessary for the City Manager to modify or suspend certain City policies and procedures to safely and necessarily provide essential health and safety services.

During such events, City services which are not immediately needed (non-essential services) will be curtailed, delayed, or suspended if, in the judgment of the City Manager, the provision of that service unnecessarily exposes the public or employees of the City to undue risk.

**Essential Services Employees are typically:**

Fire Dept	Scheduled employees or as designated by the Chief
Police Dept	Scheduled employees or as designated by the Chief
Energy Services	Designated by Director
Water Resources	Designated by Director
Public Works	Designated by Director

Essential Service employees are scheduled to report to work in spite of or because of the event. They are the employees necessary to aid during and immediately following a declared emergency or severe weather event. These employees are to report to work as instructed by their Supervisor during Limited or Delayed Service Schedules.

All Other City Employees are designated – Non-Essential Services Employees  
**NON-ESSENTIAL SERVICES EMPLOYEES** - are relieved from duty whenever a limited service schedule is put into effect by the City Manager.

All employees should be informed by their supervisor as to their Essential or Non-Essential services status. If in doubt, s/he should contact his/her supervisor for instructions.

## **PROCEDURE**

- The City Manager will determine when/if a limited service schedule is to be in effect and when/if a delayed service schedule should be in effect; Or,
- The City Manager may choose to designate an optional work day.
- Should an emergency occur outside normal business hours, employees will be notified through the Everbridge Alert System regarding closings, delays or scheduled hours outside the norm.
- In the unlikely situation whereby you may not receive the notification, you should contact your supervisor for instructions. Do NOT call City Hall or the Police Department. Likewise, Department Directors will assure their Supervisors have been properly instructed and are knowledgeable regarding their respective schedules.
- If an emergency occurs during normal business hours, the City Manager's Office will notify Department Directors. Department Directors must notify their respective employees.
- Department Directors are responsible for ensuring that information is appropriately communicated to employees within his/her department and for determining (in advance whenever possible) which employees are required for work as defined in this policy.

## **COMPENSATION**

Exempt and non-exempt employees should record their time on a disaster time record, as well as their regular time sheet. Department Directors are also responsible for insuring that appropriate records are maintained and that applicable FEMA records are completed in a timely manner.

ESSENTIAL SERVICES EMPLOYEES are compensated based on their exempt or non-exempt status. Employees are to be notified of their status with the understanding that ESSENTIAL SERVICES EMPLOYEES or NON-ESSENTIAL SERVICES EMPLOYEES designations can be changed temporarily, based upon the prevailing needs of the organization and the nature of the emergency. This designation will be made by the Department Director upon approval by the City Manager (or designee.)

ESSENTIAL SERVICES EMPLOYEES are given either hour for hour compensatory leave time for hours worked in addition to the applicable base or overtime pay (subject to FLSA guidelines) when a limited service schedule is affected by the City Manager. Department Directors and City Manager positions are not eligible to receive additional time.

NON-ESSENTIAL SERVICES EMPLOYEES receive regular pay for hours they were scheduled to work which should be recorded as other paid leave on the regular time sheet. The number of other paid leave hours recorded should only be enough to ensure that the employee receives a full paycheck. The employees who are relieved from duty must be available to be called in if needed. Part time and Temporary employees are not eligible for other paid leave.

For NON-ESSENTIAL SERVICES EMPLOYEES, if call in procedures are followed, and the employee deems it still too risky to report to work, paid compensatory or annual leave or (if no paid leave is available) leave without pay may be used for delayed service schedule days when the employee does not report to work.

If call in procedures are not followed and the employee chooses not to report to work following the delayed schedule, no additional compensatory time is given.

Employees who are already (pre-emergency) in an approved leave status that encompasses the period of a declared state of emergency, will remain on and be charged with appropriate leave if they are not called in to respond during the emergency or if they are unable to respond during the emergency.

No additional leave is given to NON-ESSENTIAL SERVICES EMPLOYEES who report prior to the scheduled opening or who report on limited service schedule days. No additional leave is given to an employee who comes to work when not required to do so.

No leave is charged to employees who report within one hour following the designated opening for a delayed service day or who report to work within one hour following their regularly scheduled reporting time during an emergency.

Any employee may be required to work during a particular emergency and must report to work as required. If a certain number of ESSENTIAL SERVICES EMPLOYEES are not needed during an emergency, they may be temporarily designated NON-ESSENTIAL SERVICES EMPLOYEES.

Department Directors are encouraged to recognize employees who made additional effort, worked additional hours and to celebrate excellent service given.

The Department Director is responsible for consistent application of discipline and appropriate use of leave for his/her department.

## **Section 15. Pregnant Workers Fairness Act (PWFA)**

### **Introduction**

This policy outlines the procedures and guidelines for providing reasonable accommodations to pregnant employees in accordance with the **Pregnancy Workers Fairness Act (PWFA)**.

### **Scope**

This policy applies to all employees, regardless of employment status, who are pregnant, have recently given birth, or have related medical conditions covered under the **Pregnancy Workers Fairness Act**.

### **Definitions**

**Pregnancy:** The condition of being pregnant, childbirth, or related medical conditions.

**Reasonable Accommodation:** Modifications or adjustments to job duties, schedules, work environments, or processes that enable pregnant employees and applicants to perform their job functions without causing undue hardship to the employer.

**Undue Hardship:** Significant difficulty or expense that would impose a disproportionate burden on the operation of the organization.

**Interactive Process:** The collaborative dialogue between the employer and the pregnant employee to identify and implement appropriate accommodations.

### **Policy**

It is the employee's responsibility to notify the City of any pregnancy-related limitation and that an accommodation is requested. An employee or applicant may request an accommodation due to pregnancy, childbirth or a related medical condition by submitting the request in writing to human resources or to the employee's department head. The accommodation request should include an explanation of the pregnancy-related limitations, the accommodation needed and any alternative accommodation(s) that might be reasonable. Depending on the nature of the accommodation, the individual may be requested to submit a statement from a health care provider substantiating the need for the accommodation.

Upon receiving a request for accommodation, the employer will engage in an interactive process with the pregnant employee to discuss the request and determine if an accommodation is reasonable and can be provided without

significant difficulty or expense, i.e., undue hardship. The interactive process may involve discussions between the employee, their supervisor, and HR personnel. Reasonable accommodations will be determined on a case-by-case basis, considering the pregnant employee's specific needs, the organization's operational requirements, and any potential undue hardships. Information regarding an employee's pregnancy and accommodations will be treated confidentially and shared only with individuals directly involved in the accommodation process on a need-to-know basis.

The City prohibits retaliation, harassment or adverse employment action due to an individual's request for accommodation pursuant to this policy or for reporting or participating in an investigation of unlawful discrimination under this policy.

## **Section 16. Driver Eligibility Guidelines**

### **Driver Qualifications Policy:**

The purpose of the following policy is to safeguard employees who drive company vehicles, protect other drivers on the road, and ensure that the City of Kings Mountain is represented with safe and courteous drivers.

Vehicle accidents are costly to the City, but more importantly, they may result in injury to you or others. It is the driver's responsibility to operate the vehicle in a safe manner and to drive defensively to prevent injuries and property damage.

As such, the City of Kings Mountain complies with all applicable federal, state, and local motor vehicle regulations relating to driver responsibility. Employees affected by this driver qualification policy include all employees who are provided a company vehicle, may use a company vehicle as part of their regular job responsibilities, or use their personal vehicles for company business.

### **Motor Vehicle Driver Eligibility Policy:**

If your position requires driving, your motor vehicle record will be reviewed before hire and annually thereafter.

You must meet these minimum driving criteria:

1. Hold a valid driver's license in good standing with your current state of residence.
2. Minimum age of 18, with two years minimum driving experience.
3. For all new and existing employees, motor vehicle records will be checked as a condition of employment.
4. Motor vehicle records must meet and remain acceptable according to the MVR eligibility criteria below.

### **MVR Eligibility Criteria:**

Below is the grading criteria that the City of Kings Mountain will use to determine driver eligibility.

An "Unacceptable MVR" will be determined by application of the following violation/accident table.

## **TYPES OF VIOLATIONS:**

### **Major violations — One makes driver unacceptable:**

- Negligent motor vehicle homicide within last five years
- Motor vehicle criminal-type conviction within last five years
- Hit-and-run within last five years
- Motor vehicle manslaughter within last five years
- Suspended or revoked license — currently suspended or revoked
- Drag racing within last five years
- Driving under influence/impaired within last five years

### **Moving violations—Reviewed in addition to preventable accidents**

- Reckless driving within last five years
- Careless driving within last three years
- Assault involving a motor vehicle within last five years
- Passing a stopped school bus within last three years
- Speeding violations
- Improper or excessive lane changes
- Following the vehicle ahead too closely
- At-fault accidents (any accident where the driver is cited with a violation, or negligently contributes to the incident OR; any single-vehicle accident that is not caused by actual equipment failure)
- Running a red light or stop sign
- Failure to yield

### **Clean**

- No violations listed on the MVR

### **Acceptable**

- The driver has violations, but does not meet the **MAJOR** or **UNACCEPTABLE** criteria

### **Unacceptable**

- Violations and accidents combined and reviewed by chart below. Example --Three or more moving violations within the last three years AND two or more at-fault accidents within the last three years is unacceptable

Please note this list is not all inclusive, but a general guideline of the types of violations that fall into “Major Violations” and “Unacceptable”.

\*Not-at-fault accidents, failure to wear seat belts, failure to register vehicle, failure to maintain vehicle, improperly marked or secured loads, oversize/overweight violations, non-compliance with financial responsibility laws, and other non-moving violations may also be considered unacceptable. Multiple incidents of these types of violations may indicate a general disrespect for safety controls and laws.

Moving violations and preventable collisions in accordance with the chart below over the past three years. Major violations remain on the record for Five years.

# Preventable Accidents	# Moving Violations (other than serious)			
	0	1	2	3
0	Acceptable	Acceptable	Acceptable	Borderline
1	Acceptable	Acceptable	Borderline	Unacceptable
2	Acceptable	Borderline	Unacceptable	Unacceptable
3	Borderline	Unacceptable	Unacceptable	Unacceptable

\*The National Safety Council defines a preventable collision as: “A preventable collision is one in which the driver failed to do everything that they reasonably could have done to avoid it.” This is regardless of whether the driver was charged or not.

**Note:** Drivers that fall into the Borderline category may be granted a temporary provisional driving authorization for a limited period of time subject to management discretion based on specific circumstances involved with the violation or collisions and other performance considerations. Additional requirements include:

- Written warning with no tolerance for additional moving violations or preventable collisions during the provisional authorization period.
- Remedial action such as additional training and a **road test**.
- Quarterly MVR updates or enrollment in a driver monitoring service.
- Written documentation of the facts supporting the decision. This documentation should be provided to Human Resources who may determine if the driver is acceptable under the policy.
- If feasible, GPS/Telematics vehicle tracking is recommended.

### Current Employees -- Driver Authorization

If within the course of your job, you are required to drive a company vehicle or drive on company business, then you are subject to this policy. COKM will need to review your current driving record and determine your eligibility.

Moving violations received while driving company vehicles, personal or leased vehicles driven during working and non-working hours will be considered. This requirement is based on receipt of violation, not final conviction. Below is a list of violations to be considered:

- All major violations, including, suspension or revocation of driver's license.
- All at fault vehicle collisions that occur during work related driving regardless of severity.
- Violation of COKM Substance Abuse Policy.
- Current employees are required to report a violation to their immediate supervisor within 48 hours of the event or before their next scheduled shift.
- An employee who falls into the Unacceptable range must either move to a new role that does not require operating a motor vehicle or be terminated. A move to another role may result in a change to pay rate and job title.

## **ARTICLE VI. EMPLOYEE BENEFITS**

### **Section 1. Eligibility**

All actively working full-time employees and elected officials of the City are eligible for employee benefits as provided for in this Article, which are subject to change at the City's discretion. Part time and temporary employees are eligible only for worker's compensation.

### **Section 2. Group Health Insurance**

The City provides group health insurance programs for actively working full-time regular employees. Information concerning cost and benefits shall be available to all employees through our Human Resources Department and your Annual Employee Benefits Guides. Health Benefits are more fully explained in the Benefits Guide provided by our Human Resources Department annually to our employees.

All employees who leave employment with the City have the right to continue medical insurance coverage at full cost of COBRA rates, pursuant to the regulations of the Consolidated Omnibus Budget Reconciliation Act. (COBRA) Details of the program can be obtained from the Human Resources office.

### **Section 3. Retiree Health Insurance**

Employees hired prior to 7/1/2024 who retire and meet the following criteria are eligible for continued medical insurance under these conditions:

1. Completion of 25 years of consecutive service at termination of employment with the City of Kings Mountain.
2. Volunteer Firefighter and/or Reserve Police Officer service may be credited 1 year for each 2 years of verifiable service.
3. The requirement for medical insurance to be continued under this provision would apply if there is no medical insurance coverage available otherwise, at no cost to the retiree.

For those retirees meeting the above criteria, the City will provide employee only coverage on the City's group medical insurance plan for the same as active employee cost.

Employee portion of health insurance expense is due for payment on the 15<sup>th</sup> of the month. If payment is not made by the 30<sup>th</sup> of the following month, the employee may be submitted for COBRA notification or moved to a cost free plan, if one is available.

Upon the retiree's 65<sup>th</sup> birthday, the City will convert the medical insurance coverage to a Medicare Supplement policy, subject to the conditions, deductibles, exclusions, and reimbursement rules of said policy.

#### **Section 4. Group Life Insurance**

The City provides group term life insurance for each full-time employee and elected officials 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 subject to the stipulations of the insurance contract.

#### **Section 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.

#### **Section 6. Retirement**

All regular full time employees are automatically enrolled in the North Carolina Local Governmental Employees' Retirement System as a condition of employment. You and the City contribute to your retirement account.

Your contribution is 6% of all your eligible earnings (including overtime, holiday pay, etc.). The 6% is deducted from your paycheck each week and is sheltered from both State and Federal taxes. Payroll deduction begins immediately upon employment.

Details on your retirement account can be found on ORBIT – the NC Retirement System website -- <https://orbit.myncretirement.com/>

Employees planning to retire should notify their supervisors and the Human Resources Department ninety (90) days prior to the anticipated date of retirement which must be the first day of a month.

### **Separation Allowance for Law Enforcement Officers**

Officers retiring (Service Retirement) on or after January 1, 1987 are entitled to a Separation Allowance, which supplements their retirement income until they reach age sixty-two (62). Officers must be under age sixty-two (62) and have either thirty (30) years of service or be at least age fifty-five (55) years old and have at least five (5) years of creditable service to be eligible for consideration of the Separation Allowance.

### **Section 7. Supplemental Retirement Benefits**

The City provides supplemental retirement benefits for full-time employees. Each law enforcement officer shall receive 401-K benefits as prescribed by North Carolina State Law. Each general employee shall receive 401-K benefits as approved by the City Council.

### **Section 8. Workers' Compensation**

All employees of the City (full-time, part-time, and temporary) are covered by the North Carolina Workers' Compensation Act and are required to report all injuries arising out of and in the course of employment to their immediate supervisors at the time of the injury in order that appropriate action may be taken at once and that the proper forms shall be filled out.

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

Any leave necessitated by an injury on the job will be counted towards an employee's FMLA entitlement.

### **Section 9. Unemployment Compensation**

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

## **Section 10 Continuing Education**

Regular full-time employees who have completed initial probation may be eligible for continuing education. Requests for education or external training must be approved by your Department Director prior to the course. Consideration will be based upon the availability of funds, the correlation of training to your job, and department staffing.

In order to comply with the FLSA, employees will be compensated at 1½ times their regular pay for any hours over 40 hours a week, while attending training or educational classes as it pertains to their jobs and as approved by the City Manager.

Department Directors are encouraged to plan in advance, and if possible to schedule time off during the same week an employee is attending training or educational classes to avoid overtime.

Workshops/conferences that have little or nothing to do with the employee's job must be paid for by employee and leave time must be requested.

All travel and training requests must be approved by the City Manager with a copy forwarded to Human Resources.

## **Section 11. Longevity Pay**

A program of longevity pay is provided to recognize and reward the length of service of City employees. The annual payment will be made the week after the regular, full-time employee's anniversary date. Payment will be made based on each employee's annual salary at the time of their anniversary date as follows.

<b>10-14 years</b>	<b>1.5% of annual salary</b>
<b>15-19 years</b>	<b>2.25% of annual salary</b>
<b>20-24 years</b>	<b>3.25% of annual salary</b>
<b>25 years +</b>	<b>4.5 % of annual salary</b>

## **Section 12. Employee Assistance Program**

The City of Kings Mountain will assist employees in seeking resources to address personal or behavioral problems that have, or could adversely affect their job performance. Such problems may include marital and family stress, financial and legal concerns, emotional problems, and such illnesses as drug dependence and alcoholism.

All employees are encouraged to participate in the EAP. All Department Directors and Supervisors are expected to use the program to increase their effectiveness in dealing with work performance problems and absenteeism.

Management will offer employees an opportunity to use the Employee Assistance Program when job performance is affected by personal problems to help them resolve their problems in an effective and confidential manner.

All Employee Assistance Program records will be the property of the provider of the Employee Assistance Program and will not be released without an employee's consent. This is necessary to maintain the highest standards of confidentiality.

Participation in the EAP is voluntary and the employee's choice. Employees are encouraged to participate voluntarily before personal problems affect job performance.

### **Eligibility**

All regular full-time and regular part-time employees are eligible. Since problems at home may also affect an employee's personal well-being or job performance, the EAP is also available to an employee's spouse or dependents.

### **Referral Procedure**

Employees may obtain professional assistance through the EAP in any of the following ways:

**Self-referral** - employees may contact the EAP directly, or may request assistance from the Human Resources department, department Director or supervisor. Any regular full-time or part-time employee or member of their family is entitled to use the services of EAP. All communications between the employee and EAP will be held in strictest confidence unless the employee requests other City officials be notified.

**Management Referral** – the basis for referral to the EAP by a Supervisor, Department Director, Human Resources Director or City Manager must be based upon either a decline in the employee's work performance, or a particular incident which indicated the possible presence of a personal problem. When an employee's performance (productivity, attendance, and conduct) has been unsatisfactory, keep in mind the EAP is supplemental to good management practice and personnel administration, not a substitute for them.

### **Other Procedures**

An employee may schedule appointments with the EAP during office hours with the approval of his/her supervisor.

Employees may be granted sick leave for EAP consultation and treatment for

rehabilitation on the same basis as for other health problems.

**ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE**

**Section 1. Policy**

The policy of the City is to provide annual leave, sick leave, and holiday leave to all actively working regular full-time employees.

**Section 2. Holidays**

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

- |                                   |                              |
|-----------------------------------|------------------------------|
| New Year's Day                    | Independence Day             |
| Martin Luther King Jr.'s Birthday | Labor Day                    |
| President's Day                   | Veteran's Day                |
| Easter (Good Friday)              | Thanksgiving (Thurs. & Fri.) |
| Memorial Day                      | Christmas (2-3 days)         |
| Employee's Birthday (Floater)     |                              |

Two days will be observed as holidays when Christmas falls on Monday, Tuesday, Friday, Saturday, and Sunday. Three days will be observed as holidays when Christmas falls on Wednesday and Thursday.

The City Manager will schedule the holidays that are to be taken.

In addition to the scheduled holidays, employees will also receive their birthday off with pay. This holiday is considered a floating holiday and can be scheduled by the employee at their own discretion. Prior approval by the Department Director is required. The birthday holiday must be taken within the calendar year or the time will be forfeited.

Birthday time must be taken within this time frame or holiday will be forfeited. The Birthday Holiday cannot be divided into hourly increments or ½ days but must be used in full.

**Section 3. Holidays: Effect on Other Types of Leave**

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

**Section 4. Holidays: Compensations When Work is Required or Regularly Scheduled Off for Shift Personnel**

Shift employees required to perform work on regularly scheduled holidays shall be allowed to take the day before or the day after, if possible or be paid at their hourly rate for hours actually worked in addition to any holiday pay to which they are entitled. If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee shall receive the holiday pay.

**Section 5. Annual Leave**

Annual leave may be used for rest and relaxation, school appointments, medical appointments, and other personal needs. Typically, annual leave is planned in advance.

**Section 6. Annual Leave: Use by Probationary Employees**

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take paid vacation leave until after fulfilling their probationary period.

**Section 7. Annual Leave: Accrual Rate**

Each full-time employee of the City shall earn annual leave at the following schedule. Years of Service shall be the larger of COKM service or Service Credit Years in the ORBIT system for NC. Applicable retirement system service from another state may be considered if the employee provides proof of an active service record.

An employee is eligible to accrue leave if they are actively working for at least 15 consecutive days of the month.

Years of Service	Days Accrued Per Year
0 - 2	10
3-4	12
5 - 9	14
10 – 14	15
15 – 19	18
20+	21

### **Section 8. Annual Leave: Maximum Accumulation**

Annual leave may be accumulated without any applicable maximum through December 31<sup>st</sup> of each year. Before the first payroll of the new calendar year, the City, in order to remove any excess accumulation, will transfer any excess over 240 hours to sick accrual at a 1:1 ratio.

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

### **Section 9. Annual Leave: Manner of Taking**

Employees shall be granted the use of earned annual leave upon request in advance at those times designated by the Department Director which will least obstruct normal operations of the City. Department Directors are responsible for insuring that approved annual leave does not hinder the effectiveness of service delivery.

### **Section 10. Annual Leave: Payment upon Separation**

An employee who has successfully completed six months of the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed 30 days, 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 by the City Manager when deemed to be in the best interest of the City. Employees who are involuntarily separated shall receive payment for accumulated annual leave subject to the 30 day maximum. Separation date shall serve as accrual date for all benefits. An employee working a notice is not eligible to take Annual Leave.

### **Section 11. Annual 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 30 day maximums established in Section 8 of this Article.

## **Section 12. Sick Leave**

Sick leave with pay is not a right of employment, but a privilege granted by the City. Sick leave may be used after 90 days of continuous employment.

Sick leave may be granted to a regular employee absent from work when the employee or a close family member is sick or has a healthcare appointment.

Sick leave may also be used for death in the employee's immediate family, not to exceed three days for any one occurrence. Additional leave time required for such occurrence may be charged to annual leave or other approved leave when approved by the Department Director and/or City Manager.

Sick leave may also be used to supplement Workers' Compensation Disability Leave during the waiting period before Workers' Compensation benefits begin.

When possible, notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave. Unusual circumstances will be considered by the department Director and a recommendation forwarded to the Human Resources Director.

## **Section 13. Sick Leave: Accrual Rate and Accumulation**

Sick leave shall accrue at a rate of one day per month of service or twelve days per year. A new employee will work and accrue sick leave for ninety (90) days before s/he is eligible to take paid sick leave except under special conditions and permission by the City Manager. Sick leave for full-time 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.

An employee must be on active pay status for 15 consecutive days in a month in order to accrue sick and vacation leave for that month. Accrual of sick leave ceases to accumulate during non-paid time such as leaves without pay.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the City. Employees are not eligible for sick leave while working a notice.

Upon written verification obtained from another North Carolina governmental organization, an employee's accrued, unused sick leave shall be transferable upon employment with the City of Kings Mountain. The total number of hours accepted as

transferred will be added to the record and eligible for use after the completion of the probationary period.

The City of Kings Mountain will transfer all accrued, unused sick time for an employee to another NC entity upon termination. That time will be permanently deleted from our systems.

#### **Section 14. Sick Leave: Medical Certification**

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

- 1) Employees shall not be on duty when they might endanger their health or the health of other employees; and
- 2) There will be no abuse of leave privileges.

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

#### **Section 15. Family and Medical Leave**

In recognition that it may become necessary to grant an absence away from work due to unavoidable or unusual personal circumstances, the City of Kings Mountain fully complies with the Family Medical Leave Act (FMLA) of 1993 for granting such leaves permitting the employee to continue employment, benefits and seniority.

An eligible employee shall be entitled to 12 weeks of leave during a 12 month period for one or more of the following reasons:

- due to the employee's own *serious health condition*
- the birth of a son or daughter to the employee, in order to care for such child;
- the placement of a son or daughter with the employee for adoption or foster child;
- the need for the employee to care for the spouse, child or *parent* of the employee, when such spouse, child or parent has a *serious health condition*;

**Definition of a serious health condition:** an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or medical care facility or subsequent treatment in connection with such inpatient care; continuing treatment by a health care provider for a period of incapacity of more than three consecutive calendar days and any subsequent treatment related to the same condition that involves treatment two or more times by a health care provider; any period of incapacity caused by pregnancy or prenatal care; and any period of absence to receive multiple treatments by a health care provider either or restorative surgery after an accident or other injury.

**Definition of a parent:** a parent includes biological parents, but also includes a person who acted in the capacity of a parent to the employee when an employee was a child. The definition of parent does not include in-laws.

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration debriefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that maybe rendered the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. (Only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered servicemember).

An employee shall be entitled to family or medical leave when s/he meets all the following criteria:

- The employee has worked for at least 12 months (not necessarily consecutive) with the City of Kings Mountain.
- The employee must have actively worked for the City of Kings Mountain for at least 1,250 hours during the 12 months before the leave would begin.
- When both spouses are employed by the City of Kings Mountain, they are jointly entitled to a combined total of 12 work weeks of family leave for the birth or placement of a child, or to care for a parent or child who has a serious health condition.

- When both spouses are employed by the City of Kings Mountain, they are limited to a combined total of 26 work weeks if the leave is to care for a covered servicemember with a serious injury or illness and for the birth and care of a newborn child, for placement of a child, or to care for a parents who has a serious health condition. (Only 12 of the 26 weeks total may be for a FMLA-qualifying reason other than to care for a covered servicemember).

An employee is no longer eligible for leave under FMLA once the 12 weeks per year has been exhausted even if the employee may need to be absent an additional amount of time. Where additional non-qualifying leave is needed, the employee may request leave under another related policy.

The employee is required to keep the City of Kings Mountain informed of his/her status and intent to return to work while on leave and is required to return immediately when the need for leave ends.

**Requests** - Request for FMLA should be made in writing by completion of the FMLA Request Form. When an employee plans to take leave under this policy, s/he must give the City of Kings Mountain 30 days notice when possible. If it is not possible to give 30 days notice, the employee must give as much notice as is possible.

When the request for FMLA involves a serious health condition, the employee may be required to provide a Certification of Health Care Provider Form (USDOL Form WH-380) completed by the physician treating the employee or immediate family member.

When seeking certification of a serious health condition, an employee should ensure the certification contains the following:

- Date when the condition began, expected duration, diagnosis, and a brief statement of treatment.
- If employee is seeking FMLA for her/his own serious health condition, certification should also include a statement that the employee is unable to perform the essential functions of the employee's position.
- For the serious health conditions of a family member, the certification should include a statement that the patient requires assistance and that the employee's presence is needed.
- If taking intermittent leave or working a reduced schedule, the certification should include dates and duration of treatment and a statement of medical necessity for taking intermittent leave or working a reduced schedule.

If deemed necessary, the City of Kings Mountain may ask for a second opinion. The City of Kings Mountain will pay for the employee to get a certification from a second physician, which the City of Kings Mountain will select. If there is a conflict between the original certification and the second opinion, the City of Kings Mountain may

require the opinion of a third physician. The City of Kings Mountain and the employee will jointly select the third physician and the City of Kings Mountain will pay for the opinion. The third opinion will be considered final.

If the employee requests an extension of leave, if the circumstances described by the original certification have changed significantly, or if the City of Kings Mountain receives information that casts doubt upon the continuing validity of the original certification, the City of Kings Mountain may require recertification of the employee's or family member's medical condition.

The City of Mountain has the right to deny leave if the employee fails to properly submit legal or medical certification, or does not comply with request for medical certification within 15 days from request.

**Procedure for Notice of Approval of Requested Leave** - Designation of leave as being FMLA-qualified shall be made by the Director of Human Resources who will notify the employee and supervising department director.

**Calculation of FMLA** - Eligible employees can use up to 12 weeks of leave during any 12 month period. The City of Kings Mountain will use a rolling 12 month period measured forward from the date an employee uses any FMLA leave. To calculate the amount of FMLA time an employee has remaining, the Human Resources Department, computes the amount of leave the employee has taken under this policy, subtracts it from the 12 weeks, and the balance remaining is the amount the employee is entitled to take at that time.

Leave may be retroactively designated as FMLA-qualifying if: (1) the reason for the employee's absence was unknown initially; or (2) the leave has been provisionally designated as FMLA-qualifying.

**Pay During FMLA** – The City of Kings Mountain requires that compensation time, accrued sick and vacation time be utilized while on FMLA in accordance with the following provisions:

- All accrued compensatory time must be exhausted before other means of paid time is used.
- If employees have enough compensatory time and/or accrued sick time to cover the entire FMLA period, then it must be used.
- If employees do not have enough accrued compensatory and sick time to cover the entire period of leave, they may elect to distribute accrued hours during the leave period.
- When an employee has exhausted all applicable compensatory time and accrued sick leave then accrued vacation may be utilized.

- When an employee has exhausted all applicable paid time (comp, sick and vacation) any remaining qualifying leave shall be unpaid or donation of sick time may be requested.
- Worker's compensation benefit time will be counted toward the 12 weeks of FMLA leave.

If a paid holiday occurs while an employee is on paid leave the employee will be paid for the holiday and the day will not be deducted from the available 12 weeks of leave.

The use of FMLA will not be considered a break in employment service with the City of Kings Mountain however any unpaid leave may subject to an adjustment of service time by the North Carolina Local Government Employee's Retirement System (NCLGERS).

An employee shall retain all unused vacation and sick leave while on FMLA Leave and Leave Without Pay. An employee ceases to earn leave credits on the date leave without pay begins. If on leave without pay for more than fifteen days in a month, an employee will not accrue sick or vacation leave for that month.

The City of Kings Mountain will guarantee the employee's placement in the same position upon return from a FMLA Leave of 12 weeks or less duration. When an employee returns from leave of more than 12 weeks, s/he will be placed in the position occupied prior to taking the leave if that position still exists and is available. If it is not available, an effort will be made for 60 days after released to return to work, to place the employee on a preferential basis, in other available comparable positions at the prevailing rates for the work, provided the employee is qualified, physically able and willing to do such work.

Employees must return to work within 3 business days after being fully released by a physician. If an employee fails to comply with this provision, the City of Kings Mountain will assume that the employee does not intend to work and his/her employment with the City will be considered as voluntary separation.

The City of Kings Mountain may require a release to return to work notice from a physician if the leave is due to an employee's serious health condition. The City reserves the right to require the employee to take a physical before returning from any leave.

The City of Kings Mountain may choose to exempt certain highly compensated, "key" employees from this job restoration requirement and not return them to the same or similar position at the completion of FMLA leave. Employees who may be exempted will be informed of this status when they request leave. If the City deems it necessary to deny job restoration for a key employee on FMLA leave, the City will inform the employee of its intention and will offer the employee the opportunity to

return to work immediately if the leave request is not due to the employee's serious health condition.

Leave may be taken "intermittently or on a reduced leave schedule" due to a single illness or injury and may include leave of periods from an hour or more to several weeks. FMLA leave may also be taken intermittently whenever medically necessary to care for a covered servicemember with a serious injury or illness or for a qualifying exigency arising out of the active duty status or call to active duty of a covered military member. Only the amount of leave actually taken will count toward the 12 weeks of FMLA leave to which an employee is entitled. When intermittent or reduced leave is required for a serious health condition with planned medical treatment, the employee is required to make a reasonable effort to schedule treatment in a manner that does not unduly disrupt City operations.

In the event that intermittent leave is medically necessary, the employee must complete the FMLA Request Form and may also be required to submit a Certification of Health Care Provider Form (USDOL Form WH-380) from the treating physician indicating that intermittent leave is medically necessary or that such leave is required to care for the seriously ill family member. This certification must include the duration and schedule of the reduced leave. Exempt employees on FMLA leave will have sick or vacation deductions for partial days missed.

#### **Section 16. Sick Leave (Non FMLA)**

When an employee or family member's illness does not qualify under the FMLA Policy but a need still exist for the employee to be away from work, a Non FMLA leave of absence maybe requested. These leaves must be approved in advance by the supervising Department Director, Director of Human Resources and City Manager and may be granted for time away from work in excess of 1 week but not more than 8 weeks. The need for leave would begin on the date the employee's health care provider determines and documents the employee is unable to work. A return to work notice from the employee's health care provider would be required prior to the employee returning to work if the leave is due to the employee's illness. The employee's position and job status will be maintained during any approved personal leave of absence. At the end 8 weeks, the employee must return to work or may be dismissed.

Pay During Non FMLA Sick Leave of Absence – The City requires that compensation time, accrued sick and vacation time be utilized while on Sick Leave in accordance with the following provisions.

- All accrued compensatory time must be exhausted before other means of paid time is used.
- If employees have enough compensatory time and/or accrued sick time to cover the entire leave period, then it must be used.

- If employees do not have enough accrued compensatory and sick time to cover the entire period of leave, they may elect to distribute accrued hours during the leave period.
- When an employee has exhausted all applicable compensatory time and accrued sick leave then accrued vacation can be utilized.
- When an employee has exhausted all applicable paid time (comp, sick and vacation) any remaining qualifying leave shall be unpaid or donation of sick time may be requested.

If a paid holiday occurs while an employee is on Non-FMLA Leave of Absence the employee will be paid for the holiday. An employee ceases to earn leave credits on the date leave without pay begins. If on leave without pay for more than fifteen days in a month, an employee will not accrue sick or vacation leave for that month.

### **Section 17. Leave Without Pay**

A regular full-time employee with at least one year of service may request a Personal Leave of Absence for personal or family needs, completion of education, or any other special needs or circumstances. These leaves must be approved in advance by the supervising Department Director, Director of Human Resources and City Manager and may be granted for time away from work in excess of 1 week but not more than 8 weeks. The employee's position and job status will be maintained during any approved personal leave of absence.

At the end of 8 weeks, the employee may apply for an additional 8 weeks of leave. This extension would be unusual and only approved in limited circumstances. These leaves must be approved in advance by the supervising Department Director, Director of Human Resources and City Manager.

At the end of the second 8 weeks, the employee must return to work or may be dismissed.

Pay and benefits during a Personal Leave of Absence is the same as outlined in Non-FMLA Sick Leave of absence above.

### **Section 18. Family Medical Leave and Leave Without Pay: Retention and Continuation of Benefits**

An employee is entitled to maintain group health insurance coverage, dental insurance and/or life & disability insurance coverage on the same basis as s/he has before going on FMLA. Payment for these benefits will continue to be deducted from earnings each pay period. However, if any portion of the leave is unpaid, then the employee will have to pay their share of the insurance premium payments to

maintain uninterrupted coverage. This payment shall be made by the 15<sup>th</sup> of each month. If the employee's payment is more than 60 days overdue then coverage may be dropped.

If an employee chooses not to return to work for reasons other than a continued serious health condition, the City will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period.

Other insurance and payroll deductions are the responsibility of the employee and the employee must make those payments for continued coverage of that benefit.

### **Section 19. 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 or vacation during the first waiting period. An employee on workers' compensation leave may be permitted to continue to be eligible for benefits under the City's group insurance plans. The employee continues to be responsible for his/her portion of the group insurance plan benefits.

Worker's compensation benefit time shall be counted toward the 12 weeks of FMLA leave.

### **Section 20 Vaccination Policy**

Some employees of the City of Kings Mountain may be required to receive vaccinations within the course and scope of their employment. The Human Resources department will work with the employee to arrange these vaccinations.

### **Section 21. Military Leave**

Appropriate military leaves of absence will be granted as outlined by state and federal law. Pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), any employee who is in the "Uniformed Services," as that term is defined by USERRA, will be eligible for military leave.

An employee who is a member of the *National Guard or Armed Forces Reserves* will be allowed ten workdays of paid military training leave annually provided a copy of the military service training orders is submitted to the Department Director.

On rare occasions due to annual 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. If such duty is required beyond these

ten workdays, the employee shall be eligible to take accumulated vacation leave or be placed in a leave without pay status, and the provisions of that leave shall apply. While taking military leave, the employee's leave credits and other benefits shall continue to accrue up to the time the employee exceeds 30 days of leave. Employees who are eligible for military leave have all job rights specified by USSERA.

Employees called to military duty may continue their employee and/or family health insurance coverage for up to 18 months through COBRA.

### **Section 22. Reinstatement Following Military Service**

Employees returning from active duty will be reemployed in the job that they would have attained had they not been absent for military service, with the same seniority, status, and pay as well as other rights and benefits determined by seniority.

Employees must return to work within USSERA guidelines.

An “application” for reemployment (must be in writing and submitted to the Human Resources Department) The intent to reemploy may be in any form, oral or in writing, as long as it clearly conveys that the person is a returning service member who wants work.

### **Section 23. Jury Duty/Civil Leave**

A City employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee must give reasonable notice to Department Director of jury duty in order to provide planning & scheduling. 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 City duties. While on civil leave, benefits and leave shall accrue as though on regular duty. If the employee is released “early” for jury duty, it shall be that employee’s responsibility to return to work. Jury duty counts as regular work when computing overtime.

### **Section 24. Shared Leave**

The intent of the Voluntary Shared Leave Policy is to allow one employee to assist another employee who has exhausted all of his/her accrued leave in case of a prolonged medical condition affecting that employee OR to assist an employee needed to care for a qualified family member (as defined in the City of Kings Mountain Family and Medical Leave Rights under FMLA).

The employee applying for shared leave must:

- Be a regular full-time employee working 30 hours or more per week

- Must have completed six (6) months of continuous employment and satisfactorily completed their probationary period
- Must have exhausted all of his/her available accrued leave time
- Must have a medically verified, continued need for leave

**Donor and Donation Provisions:**

- Must be employed for a minimum of 12 months
- Must donate a minimum of 8 hours
- Maximum donation amount of sick or vacation leave by one individual cannot reduce accrued time to less than 96 hours vacation and 80 hours of sick leave
- Donations will be on a voluntary one-on-one basis
- Donated hours will not be prorated but will be hour for hour
- Maximum donation per recipient will not exceed 480 hours (12 weeks) per leave

While on paid (shared) leave through this policy, the participant/recipient will continue to accrue sick and vacation leave. The employee’s accrued leave will be exhausted prior to using any more shared leave.

The HIPAA Privacy Act makes medical information confidential. When disclosing information on an approved recipient, only a statement that the recipient (or approved family member) has a prolonged medical condition needs to be made.

**ARTICLE VIII. SEPARATION AND REINSTATEMENT**

**Section 1. Types of Separations**

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

**Section 2. Resignation**

An employee may resign by submitting the reasons for resignation and the effective date in writing to 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 Director and approval by the City Manager.

Two consecutive days of absence without contacting the immediate supervisor or Department Director may be considered to be a voluntary resignation.

### **Section 3. Reduction in Force**

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

### **Section 4. Disability**

An employee may be separated for disability when the employee cannot perform the required duties of the job and after considering every reasonable accommodation because of a physical or mental impairment. Action for disability separation may be initiated by the employee or the City, but in all cases consideration for disability separation shall be supported by medical evidence as certified by a competent physician. The City may require a physical and/or mental examination at its expense and 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's service for which the employee may be suited.

### **Section 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. The employee should give a minimum 90 day notice prior to voluntary retirement.

### **Section 6. Death**

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

### **Section 7. Dismissal**

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

### **Section 8. Reinstatement**

An employee who is separated because of reduction in force may be reinstated within one year of the date of separation, upon recommendation of the Department

Director, and upon approval of the City Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave.

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.

### **Section 9. Rehiring**

An employee who resigns while in good standing may be rehired with the approval of the City Manager, and may be regarded as a new employee, subject to all of the provisions of rules and regulations of this policy.

## **ARTICLE IX. PROGRESSIVE DISCIPLINE, UNSATISFACTORY JOB PERFORMANCE AND DETRIMENTAL PERSONAL CONDUCT**

### **Section 1. DISCIPLINARY ACTION**

Disciplinary Action is intended to point out unsatisfactory job performance or detrimental personal conduct in the hopes of correcting such behavior. It is taken in response to a deviation from the expected and is meant to have a positive effect. Because the City aspires to high standards of performance and behavior from its employees, it has established a progressive discipline policy. This policy is intended for guidance and does not entitle employees to progressive discipline in all situations. This discipline policy does not alter the at-will nature of employment.

#### **Progressive Disciplinary Procedure**

The progressive disciplinary procedure will normally be followed when practical depending upon the individual circumstances and the severity of an offense. Before any discipline is imposed, an employee shall be informed by his/her supervisor and Department Director of the nature of the discipline, the reasons for it and the date the discipline becomes effective.

The progressive disciplinary process includes, but is not limited to, the following actions:

**Counseling Session or Verbal Warning** – Typically the first step in the formal disciplinary process, this step will consist of a documented conversation between the employee and his/her supervisor and/or his/her department director or both to describe specific examples of the unsatisfactory conduct or behavior and make suggestions/requirements for improvement, usually within a given time frame.

**Written Warning** – Used for behavior or violations which are considered serious enough to be warranted without a verbal warning or where a verbal warning has not helped to change unacceptable behavior. An employee should recognize the

serious nature of a written warning. Written warnings must be approved by the Supervisor, the Department Director and the Human Resources Director.

**Suspension** – When the employee has committed serious breaches of policy and/or after repeated warnings, suspension should/may be the next resort. Suspension is unpaid time away from work, typically to progress from 1 day to 3 days dependent upon the violation(s) and usually accompanied by a Final Warning. Suspension must be approved by the Supervisor, Department Director and the Human Resources Director.

**Demotion** – After counseling, warning and suspension if the employee’s behavior has not been corrected, demotion may be a viable option. This step may also be bypassed at the discretion of the Department Director and the Human Resources Director. Should demotion be the step taken, approval of the City Manager would also be necessary.

**Dismissal** – Termination of employment for serious breaches of policy, irresponsibility, unsatisfactory performance or misconduct. Dismissal must be approved by the Supervisor, Department Director, Human Resources Director and the City Manager.

Certain actions or types of misconduct are sufficiently serious that some or all of the steps in the progressive discipline process may not be followed.

An employee may be placed on a disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined above, the employee’s job performance is still deemed to be unsatisfactory. All cases of disciplinary demotion, or dismissal must be approved by the Department Director, Human Resources Director and the City Manager prior to giving final notice to the employee.

Disciplinary actions may be appealed through the use of the Grievance Procedure and Adverse Action Appeal Policy

## **Section 2. Unsatisfactory Job Performance**

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

- Demonstrated inefficiency, negligence or incompetence in the performance of duties;

- Careless neglect, improper use, willful or wanton damage or destruction of/to City equipment or property;
- Physical or mental incapacity to perform duties;
- Discourteous treatment of an employee(s) and/or the public
- Absence without approved leave
- Repeated improper use of leave privileges
- Habitual pattern of failure to report for duty at the assigned time and place
- Failure to complete work within established time frames or work standards
- Failure to meet or complete work standards over a period of time

Disciplinary Action Forms will be retained indefinitely in the affected employee's personnel file. However, there is usually a one-year limit for disciplinary action consideration. This means that if an employee has a clear record for one year, then prior disciplinary actions should not normally be considered when current discipline is required.

Disciplinary actions may be appealed through the use of the Grievance Procedure and Adverse Action Appeal Policy

### **Section 3. Detrimental Personal Conduct**

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor should meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions should be noted in the employee's file by the supervisor. An employee whose job performance is unsatisfactory over a period of time should normally receive at least two (2) warnings from the supervisor before disciplinary action potentially resulting in dismissal is taken by the City Manager. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the supervisor should follow the steps of the Progressive Discipline Policy.

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the City may be impaired, the safety of persons or property is threatened, or the laws of any government may be or have been violated. In cases of detrimental personal conduct, an employee may be terminated by the City Manager with no prior warnings.

- Fraud or theft
- Dishonesty, falsification of documents

- Conviction of a felony or the entry of a plea of nolo contendere thereto;
- Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- Willful misuse or gross negligence in the handling of city funds;
- Willful or wanton damage or destruction to property
- Possession of unauthorized firearms or other lethal weapons on the job;
- Brutality in the performance of duties;
- 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;
- Engaging in incompatible employment or servicing a conflicting interest;
- Request or acceptance of gifts in exchange for favors or influence;
- Engaging in political activity prohibited by this chapter;
- Stated refusal to perform assigned duties or flagrant violation of work rules and regulations
- Gross inefficiency, insubordination or refusal to perform assigned duties;
- Engaging in a scheme for personal profit in connection with official duty on or off City property;
- Harassment of an employee or member of the public on the basis of a protected category
- Stated refusal to perform assigned duties or flagrant violation of work rules and regulations.
- Conduct unbecoming a City employee that is detrimental to the employee's service to the City;
- Any unauthorized one party audio or video taping of employees or citizens at any time without notifying parties affected before the taping is initiated. This does not apply to criminal investigations being conducted by the Police or Fire Department.

#### **Section 4. Substance Abuse Policy**

The City may establish 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. DOT and PHMSA policies concerning drug testing are maintained in the affected departments.

##### **1.0 Purpose**

The City of Kings Mountain has a strong commitment to the public safety and a safe secure workplace and to promote the highest standards of employee health.

This regulation delineates the City's policy with regard to the presence of drugs and alcohol in the workplace and the influence of these substances on employees during working hours and on applicants seeking employment with the City.

## **2.0 Policy**

- 2.1 It is the policy of the City of Kings Mountain to maintain a safe work environment. All personnel, equipment, and operating practices must be consistent with the highest standards of health and safety.
- 2.2 The unlawful manufacture, distribution, dispensation, possession or use of drugs and alcohol in the workplace during working hours is prohibited. Any violation of such shall be grounds for disciplinary action up to and including job termination.
- 2.3 Being a public employer, the City is entrusted with the health and safety of its citizens. In keeping with this obligation, all qualified applicants who are offered full-time City positions shall be required to undergo a drug screening procedure.
- 2.4 Individuals employed with the City shall be required to undergo drug screening procedures whenever reasonable suspicion exists that their conduct on the job is being influenced by drugs or alcohol. This provision includes all employees regardless of position.
- 2.5 It shall be the responsibility of any employee to notify his/her supervisor in writing of any criminal drug statute arrest or conviction for a violation, no later than five (5) days after such arrest or conviction.
- 2.6 The City recognizes that alcohol and drug abuse can be successfully treated and will provide an EMPLOYEE ASSISTANCE PROGRAM to assist employees and their families.
- 2.7 All alcohol and drug screening procedures will be conducted by the City's designated medical provider.
- 2.8 Specimens will be checked by a certified laboratory utilizing chain-of-custody procedures. A second type of screening test for confirmation of any initial positive test will be utilized prior to notification.
- 2.9 Screening results will be held in the strictest confidence. Applicants and employees who are tested will be provided a copy of the test results if requested in writing.

- 2.10 This Policy is designed to discourage substance abuse by employees at any time, but particularly while at work or during times when there may be an affect on performance during working hours.
- 2.11 Human Resources will maintain the contact information for the administrating laborory for substance screening.

### 3.0 Departments Affected

The departments affected are all individuals in all departments seeking or having employment with the City of Kings Mountain. Some departments may have stricter guidelines that require more stringent testing methods:

- CDL licensed drivers
- PHMSA regulated departments, such as, Natural Gas
- Law enforcement and other Public Safety

### 4.0 Definitions

- 4.1 Controlled Substance means a drug, substance, or immediate precursor included in schedules I through VI of Chapter 90, Article 5, Sections 90-89 through 90-94 of the North Carolina General Statues.
- 4.2 Substance Abuse consists of any of the following:
  - 4.2.1 Excessive use of alcohol as a beverage, or the use of lawfully-obtained controlled substance or any non-controlled (prescriptive) substance when such use impairs job performance, alters behavior and/or creates a risk to the health and/or safety of the employee or others.
  - 4.2.2 Use of a controlled substance obtained unlawfully.
- 4.3 Drug Screen: A chemical test conducted on a urine, blood, or breath sample by the designated laboratory to detect the occurrence of substance abuse. To insure maximum validity, a test shall be declared positive only after two independent procedures confirm the presence of a controlled substance in the test sample.
- 4.4 **EMPLOYEE ASSISTANCE PROGRAM (EAP):** A program designed to evaluate, counsel, and/or refer employees who develop personal or medical problems that contribute to unacceptable patterns of job performance.

**Procedures:**

**Pre-placement Substance Abuse Screening:** All persons who are offered full time employment with the City of Kings Mountain shall be required to undergo a drug screening procedure. All persons who are offered employment other than full-time may be required, at the discretion of the Human Resources Director, to undergo a drug screening procedure.

All applicants shall be informed in writing of the City's substance abuse policy drug screening procedure.

- Persons who may be tested must sign the consent form for substance abuse testing.
- Applicants who refuse to sign the consent form will not be considered for employment.

An applicant with a positive test result will not be considered for employment into the position for which he/she was seeking.

Applicants who receive a positive screening test are barred for a one-year period from consideration for any positions.

Persons who reapply for positions will be tested again if they are offered employment.

Employment decisions based upon drug screening test results are irrevocable and appeals will not be considered.

**Employee Substance Abuse Screening**

After being hired, no City employee shall be requested to undergo substance abuse testing without reasonable suspicion unless such employee is subject to random testing procedures.

Supervisory personnel must establish the basis for a reasonable suspicion of substance abuse prior to initiation of the substance abuse testing process as to any selected individual(s). Prior to implementing this program, all supervisory personnel may be trained as to the signs and symptoms of such abuse. All referrals, documentation, and supervisory actions relative to this policy shall be kept in strictest confidence.

Reasonable suspicion must be based upon an employee's behavior on the job. Supervisory personnel who observe an employee who smells of alcohol or marijuana, appears intoxicated, confused, disoriented or uncoordinated; who exhibits marked personality changes; shows obvious irrational behavior or is involved in an avoidable

accident with city equipment, must remove that employee from all responsibility for operating equipment or from any other situation which may pose an immediate hazard, until reviewed. This paragraph is in compliance with 49 CFR 199 under its reasonable cause testing regulations

If such employee refuses to cooperate in the substance abuse testing process, and if such employee appears to then be impaired due to substance abuse, arrangements shall be made to promptly transport him/her to his or her residence. If such employee refuses to be transported to his/her residence, he/she will be immediately suspended.

Employees who refuse to cooperate with testing and who are taken home shall be immediately suspended and may be subject to removal from his or her position. Those who refuse to cooperate with testing, but who do not appear at that immediate time to be impaired due to substance abuse shall be suspended.

In the event the employee's test results are positive, the following steps will be taken:

- (a) The City's designated medical provider will verbally advise the Human Resources Director, who will in turn advise the employee's Department Head of the findings.
- (b) The Department Director will arrange an Administrative Pre-determination meeting with the affected employee. In order to preserve confidentiality to the greatest extent possible, this meeting should be conducted at a site away from the employee's normal working area, and shall be attended only by the employee, Department Director, Human Resources Director, and one Supervisor. The format of the Pre-determination meeting will be to advise the employee of the test results and to allow the employee to fully respond to the findings.
- (c) In the event an employee taking prescription drugs should test positive, he/she will be asked to validate the prescription and the dosage to the City's designated medical review officer.
- (d) Based on the employee's over-all work history, along with the facts gathered during the predetermination meeting, the Department Director, after review with the Human Resources Director and approval from the City Manager, will advise the employee in writing of the administrative action to be taken in the matter.
- (e) Other factors to be considered in determining final administrative action may include such things as over-all job performance, length of service, probationary status, personal history relating to controlled substances or substance abuse and the willingness of the employee to participate in the Employee Assistance Program.

It is the intent of the City to refer employees to appropriate employee assistance counseling and appropriate course of action. In order to hold his/her position with the City, the employee must enter and complete the required rehabilitation program, and work performance must quickly return to an acceptable level.

In order to assure that the employee remains free of alcohol or substance abuse as defined herein, the City reserves the right to require unannounced drug screening tests during a period of one year after the employee rehabilitation program begins.

An employee who refuses to enter a required program or fails to complete such a program, unless due to verified disability resulting from illness or injury, shall immediately be terminated from employment. Such failure to enter or complete the required program shall be considered by the City as a voluntary termination of employment by the employee.

An employee who successfully completes the rehabilitation process and is preparing to return to duty must successfully undergo the employee substance abuse screening process.

#### **Random Screenings**

Employees subject to random drug screening will be those in public safety positions (Fire and Police), those in the Gas department and any other position subject to Federal or State mandated screening. (This currently includes those with commercial drivers licenses, meter readers, electric department personnel, water plant operators, wastewater treatment plant operators, and all personnel who might initially receive emergency calls for natural gas system repairs.)

An employee subject to random drug screening shall be selected by using a random number table or a computer-based random number generator that is matched with an employee's social security number, payroll identification number, or other appropriate identification number.

An employee who transfers from a non-covered position to one subject to random drug screening will be subject to this section.

The random drug screening shall be spread reasonably throughout a twelve-month period and will affect at least fifty percent (50%) of the employees designated.

#### **Contract Labor Screenings**

The City may require Contractors working for the City to provide their Drug and Alcohol policy prior to starting work.

### **Section 5. SMOKING, VAPING, & USE OF TOBACCO PRODUCTS**

Smoking, second hand smoke and tobacco products have been determined to be hazardous to human health. Use of tobacco products such as smokeless tobacco, snuff and chewing tobacco cause problems with maintaining minimum levels of hygiene, safety and public appearance. For these reasons, all City owned buildings and vehicles are designated as areas where employees are prohibited from using tobacco products, smoking or using smokeless tobacco, snuff, chewing tobacco, vaping or the use of electronic cigarettes etc., unless otherwise indicated.

**Procedure:**

1. Use of tobacco products and/or vaping or the use of electronic cigarettes will be allowed in specified areas only as designated by the City Manager.
2. Users of tobacco products and/or vaping devices and electronic cigarettes are responsible for the proper disposal of waste materials.
3. Employee violations will be handled through the City's existing disciplinary procedures.
4. The Public Works Director will be responsible for appropriate signage in the approved designated areas to notify employees and the public of these policies .

**Section 6. Employee Travel Policy**

This policy is to regulate the City of Kings Mountain's reimbursements to employees for travel, meal expenses, incidentals, and lodging while away from work on approved City business.

The purpose of this policy is to provide a simple, yet effective means of reimbursing certain direct and necessary expenses, to avoid excessive expenses intended for actual travel costs, to provide moderate meals of traditional frequency and reasonable lodging in motels/hotels of average cost for overnight accommodations.

**TRAVEL**

- Employees with city owned vehicles available to them are to use them whenever possible.
- Employees provided an automobile for city use purposes (i.e. Those receiving monthly car allowances) will be reimbursed for actual gasoline expense for out-of-city trips.
- Private automobiles are authorized, when necessary, with reimbursement based on the current IRS standard mileage rate.

- Gasoline reimbursement when using a city vehicle is to be at exact cost as evidenced by receipts.
- Joint use of city vehicles is expected for common destinations and events.
- Air travel and related parking and ground transportation expenses will be reimbursed for out of state travel, which has been authorized by Department Director, Finance Director, and City Manager.
- The City does not reimburse for telephone calls placed on your motel bill. If you have to call your work site, use a City supplied cell phone. Personal calls are considered an incidental expense in the per diem reimbursement.

## **LODGING**

- Employees are expected to stay overnight in moderate, average priced accommodations. Exceptions may be authorized by the City Manager when the meeting being held is based in a particular motel/hotel.
- Spouses and other guests accompanying employees will not be housed at the City's expense. A deduction on a motel/hotel bill or receipt is expected to reflect any differences. An exception may be granted for lodging reimbursement by the City Manager.

## **MEALS**

- The City will reimburse on a per diem basis for overnight travel to be used for meals and incidental expenses. The amount per day (which is considered a 24-hour period) will be based on the current per diem rate as set by the IRS by locality.
- Exceptions may be made by the City Manager for employees attending meetings in i.e. Chapel Hill, Raleigh, etc. that choose to travel in a.m. and return in p.m. that same day.
- For one-day seminars, meetings, etc., the City will agree to pay for registration cost. Meals will not be reimbursed unless approved by the City Manager under peculiar situations.

## **AUTHORIZATIONS AND REIMBURSEMENT**

- All travel must be approved by the Department Director and City Manager through a Travel Request Form and a signed copy forwarded to the HR Department.
- To request an advance on the per diem for meals and incidentals, registration, or for lodging, present a check requisition to the Finance Director with a copy of the approved Travel Request Form and other documentation to substantiate your request.

- A separate check requisition must be presented for each type of advance. i.e. one for per diem allowance – payable to employee; one for registration – payable to institution or business; and one for lodging – payable to motel/hotel.
- When you return from your travel, complete and send an expense report to the Finance Director (within one week) to clear up any pending paperwork. Receipts need to accompany expense report to substantiate expenditures.

## **Section 7. Information Technology Policies**

### **1.0 Purpose**

The City’s computers and internet are powerful business tools. Unfortunately, it can also be both a distraction from productive work as well as a threat to the security of our network. In an effort to clarify our position on the use of these items, we have developed the following policy. This policy will be amended and re-distributed in the future as appropriate.

### **2.0 Scope**

This policy applies to all employees, temporaries, and other users conducting business on City of Kings Mountain grounds, and to all equipment that is owned or leased by the City of Kings Mountain. This policy targets network related equipment and may not apply to special projects where computer equipment is specific to other systems that are not part of the city network.

Departments may add additional restrictions to this policy, but may not remove or delete any provisions. This policy serves to protect the users and network of the City of Kings Mountain; removing any part of this policy may place users or the network at risk of compromise.

### **3.0 General Technology Policy**

#### **3.1 Use and Ownership**

While the City of Kings Mountain does not desire to be intrusive in its monitoring of networks, users should be aware that the data they create on the City’s systems remains the property of the City of Kings Mountain. Because of the need to protect the City’s network, management does not guarantee confidentiality of user data stored on any network device belonging to the City of Kings Mountain.

Internet/Intranet related systems, including but not limited to computer equipment, software, operating systems, storage media, network accounts providing electronic mail, web browsing, and FTP, are the property of the City.

These systems are to be used for business purposes in serving the interest of the city.

No one may relocate any computer equipment without prior approval from the IT Department.

For security and network maintenance purposes, authorized City personnel may monitor equipment, systems, and network traffic at any time. The City reserves the right, and intends to audit networks and systems on periodic basis to ensure compliance with this policy. Individuals authorized to audit systems include the City Manager, HR Manager, and IT staff.

**All software request, hardware request, and purchases of computers and network equipment will be processed through the IT Department.** All hardware and software will be shipped to the IT Department where it will be inventoried. The hardware will be configured by the IT Department prior to delivery to the department for final setup.

### 3.2 Security

Effective security is a team effort involving the participation and support of every City employee and affiliate. It is the responsibility of technology users to know these guidelines and to conduct their activities accordingly.

#### 3.2.1 Cybersecurity Training

All City employees who have been issued a city email address and/or network login must participate in mandatory Cybersecurity Training provided by the City. If an employee fails to maintain compliant participation, their network login account will be disabled. They will no longer be able to sign in on computers or access email. That employee would then have to contact the IT Department to have their account reinstated. Upon reinstatement all materials have to be made up within 48 hours or the account would again be disabled.

#### 3.2.2 Your Responsibilities

**You are responsible for both your computer and your login. Your network password is private information and is not to be shared with other employees. You are ultimately responsible for what happens at your computer or with your login.** Employees using City accounts are acting as representatives of The City of Kings Mountain. Employees should act accordingly to avoid damaging the reputation of the city. Anyone other than the IT Department staff must obtain permission from the computer owner before using that person's computer or login. Department directors are allowed to access others computers, but only those within their department. If a situation is unavoidable where you have to share your login or computer

you must change your password afterward in order to remove future access by that person. Contact the IT Department if you need assistance in doing so.

No unauthorized external access. Access to The City of Kings Mountain's programs, software, and information from outside the company premises is only allowed with permission and strict pre-requisites. Tools such as "PCAnywhere", "GoToMyPC", and "LogMeIn" are strictly prohibited from being used to connect remotely unless authorized by the IT Department. Approval to connect must first be approved by both your supervisor and the IT Department. The computer used to gain access must be either provided by The City of Kings Mountain and/or meet security standards before attempting to connect. Security standards include, but are not limited to, installation of critical Windows Updates and a current antivirus program installed with the most up-to-date definitions.

Connecting equipment to the City network is restricted. Personal equipment such as computers, laptops, mp3 players, and cameras are strictly prohibited from being connected to the network as these items can bypass security measures and easily introduce viruses to the City network. In the event this action is necessary, you must get IT approval prior.

No user may download or in any way install software or hardware that has not first been authorized by the IT Department. Software includes, but is not limited to desktop themes, music downloads, screensavers, messenger services, or anything else that was not originally shipped with your operating system. Personal photographs may be used as wallpaper on your desktop; however, they must be acceptable for viewing by the general public.

At the end of the day, you are responsible for closing all applications on your computer, and turning off the monitor. This is for both security and power conservation. You do not have to shutdown your computer every day, but it is recommended that you shut it down if you will be out of the office for several days or as a preventative step if lightning storms are likely.

### **3.2.3 Security – Multi Factor Authentication (MFA)**

The purpose of this policy is to provide guidelines for MFA, in order to access Kings Mountain network resources both from City premises and remotely.

MFA applies to all users. A user is defined as any: employees, elected officials, vendors, and contractors that use City credentials to connect to the network and various technology systems.

All users are required to engage in Multi-Factor Authentication (MFA) where it is implemented. City users are required to follow the MFA protocol upon accessing resources in one of the following methods:

- Push notification to a personal or city issued smartphone with the MFA app installed; or
- A token provided by the City IT Department. Users will reimburse the City for replacement cost of lost or stolen tokens.

### **3.3 Unacceptable Use**

Under no circumstance may an employee engage in any activity that is illegal under local, state, federal or international law while using City of Kings Mountain owned or leased resources.

It is unacceptable and punishable to view or store pornography on networks and devices owned, leased, maintained, or otherwise controlled by the City of Kings Mountain, with specific exception, as provided and mandated by G.S. 143-805. Annually, no later than August 1 and in the format required by the State Chief Information Officer, each public agency shall report information to the State Chief Information Officer on the number of incidences of unauthorized viewing or attempted viewing of pornography on that public agency's network; whether or not the unauthorized viewing was by an employee, elected official, appointee, or student of that public agency; and whether or not any of the unauthorized viewing was on a device owned, leased, maintained, or otherwise controlled by that public agency.

The installation or distribution of "pirated" or other software products that are not appropriately licensed for use by the City of Kings Mountain is not allowed.

Any activities with the intention to create and/or distribute malicious programs into the City's network (e.g., viruses, worms, trojans, etc.) are prohibited.

### **4.0 System Resource Policy**

The system resources policy addresses access to system resources such as email, internet, and servers.

#### **4.1 Email and Communications**

Business communications can occur in many formats. Email, among other formats, can be a public record based on content and may be subject to public disclosure in accordance with the Public Records law, as cited in North Carolina General Statutes 132. Every employee is individually responsible for the public records they generate or receive and for retaining those records in

accordance to this law, regardless of the technology used to create the records.

Emails that are considered inappropriate, sensitive, offensive, vulgar, or illegal are prohibited and may not be sent from your email account. Individuals shall not use the City's internet or email for personal use or to forward email chain letters; view, download, save, receive or send material related to or including: offensive content of any kind, including pornographic material; promoting discrimination on the basis of race, gender, national origin, age, marital status, sexual orientation, religion, political affiliation, or disability; threatening or violent behavior; or illegal activities such as gambling.

Employees may not use city email accounts to create personal accounts such as but not limited to: social media platforms, banking, or personal utilities. The IT Department will not assist former employees with account recovery due to using city email for personal account creation.

Employees must use extreme caution when opening attachments or clicking hyperlinks in an email. If an attachment or link is in question, contact the IT Department to have them evaluate it before opening.

Sending of "Junk Mail" (email spam) is not allowed.

All messages distributed via the City email system are property of the City of Kings Mountain. You have no expectation of privacy in anything that you create, store, send or receive on the City's email system. Your emails can be monitored without prior notification whenever the City deems this appropriate. Individuals authorized to monitor email include the City Manager, HR Manager, and IT staff.

Accessing personal web mail such as AOL, Hotmail, Google, and Yahoo is prohibited. These email systems are not filtered or scanned by the City and are more vulnerable to viruses which would bypass City security measures that are in place.

Although the City's email system is meant for business use, the City will allow minor personal usage if it is reasonable and does not interfere with work. "Reasonable" will be defined by each department head.

You should not use your city email address to register for anything unless it pertains to city business. This includes but is not limited to social networking sites, store emails and coupons, etc.

#### **4.2 Passwords**

Passwords are an important aspect of computer security. A poorly chosen password may result in the compromise of the City's entire corporate network. As such, employees are asked to memorize your password(s) and never write it down or store it online.

The IT Department will dictate how often passwords will change and what level of security passwords must meet.

#### **4.3 Internet Access**

Internet access is primarily for official business. Employees are authorized to access the Internet for a reasonable amount of personal use during non-business time, in strict compliance with the other terms of this policy. Non-business time and "Reasonable" will be defined by each department head.

Websites that are considered inappropriate, sensitive, offensive, vulgar, or illegal such as sites containing pornography, gambling, or racism are prohibited.

The City of Kings Mountain expects its employees to present a favorable and professional image of the City to the entire Internet community and to adhere to customary Internet ethics.

Employees may not use City resources for accessing or attempting to access information, programs, services or sites to which you do not have specific authorization.

Streaming of internet video and/or audio (such as Hulu, Netflix, XM radio, internet radio) is not allowed. Streaming places a huge strain on internet bandwidth and can negatively affect other network systems.

Using the Internet to make personal phone or video calls via services such as Skype is prohibited.

#### **4.4 Cell Phones/Mobile Devices Usage Policy**

This policy applies to City issued and personal cell phone/mobile device usage. The mobile device is primarily a business tool and its use must comply with all requirements of the policy as outlined below as well as any additional policies and procedures.

Under NO circumstances should a cell phone/mobile device be used while operating equipment, or in hazardous environments.

Use of any devices while on the job is prohibited except for emergency situations and with the approval of Supervisor/Manager.

As a rule, employees should not use mobile devices while driving. For those employees needing to use cellular/mobile devices while driving, the use of a hands-free device is recommended.

Taking and storing inappropriate photographs/images is prohibited pursuant to the City's use of Internet and E-mail policy. Usages of these devices are subject to and must comply with all sections of the City's Information Technology Policies. The city is not responsible for the retention of personal photos taken on city cell phones.

It is the department director's decision on when devices are to be upgraded.

Employees are expected to abide by all applicable laws covering the use of mobile devices while driving. **The City will not be held liable in part or portion for any fees, fines or judgments imposed by law enforcement or the courts for violations of this nature or accidents deemed to be caused by the use of a cellular/mobile device.**

#### **4.4.1 City Issued Cell Phones/Mobile Devices**

Mobile devices will be provided for eligible employees based on business needs as a productivity tool.

Texting from or to a City issued device is also public record and may be subject to public disclosure in accordance with the Public Records law. For that reason, text messaging on city provided phones will be archived. All text messages distributed via a City issued cell phone are property of the City of Kings Mountain. You have no expectation of privacy and your text messages can be monitored without prior notification whenever the City deems this appropriate. Individuals authorized to monitor text messaging include the City Manager, HR Manager, and IT staff.

Smartphone devices will only be approved for those eligible employees who have the need to frequently be away from their offices in remote working locations and require prompt or immediate availability/access and have a business need for data services. These devices will provide you with the capability of utilizing standard email, contacts, and calendar services. In addition, Smartphone devices can be monitored remotely to provide additional security and to ensure that the proper Security Policies are in place. Since these devices are City owned, they are subject to inspection by the IT Director, the Human Resources Director or the City Manager.

- Positions qualifying for Smartphones are (but may not be limited to):  
Directors/Management/IT – Other positions must have approval of  
Department Director and City Manager

Standard cell phones will be provided for eligible employees who have the need to frequently be away from their offices in remote working locations and require prompt or immediate availability/access but do not require data services in the normal function of their job responsibilities.

- Positions qualifying for Standard cell phones are (but may not be limited to):  
Supervisors/Crew Leaders - Other positions must have approval of  
Department Director

Discretion should be used when choosing or adding apps to City provided cell phones as these can track and remotely access information that may be detrimental to the employee or the City and/or may be prone to viruses negatively affecting the device. When in doubt as to the integrity of these apps contact our IT Director.

**It is required that all City Smartphone devices be password, PIN, or Pattern protected.** This password should be kept private for your own use and safety and not distributed to others.

It is the City's policy that the wireless numbers associated to all City issued smartphone and cell phone devices are City owned. There will be no approval granted to an employee to seize their wireless number upon separation from the City. If an employee that transferred his/her personal number to the City separates from the City and wishes to transfer their number back to a personal device, approval will not be granted.

Each mobile device will be issued with a wall charger and a case. Should an employee wish to purchase any additional accessories (vehicle chargers, other cases, etc.), they can do so at the employee's own expense.

**If a City issued device is damaged, lost or stolen, the employee is responsible for contacting both their Department Director and the IT Department immediately.**

**Loss, accidental damage, or neglect to cell phones and/or accessories must be reported to the department director and can result in the employee being written up by the director. The employee may also be held financially**

**responsible for replacement cost due to damage. The director will then notify IT staff on how to proceed with the replacement.**

Although these devices are provided as tools for the job and the expenses are borne by the City, employees are allowed to use City provided cell phone/mobile devices for reasonable personal use. Should this usage be perceived as being excessive, the employee may be held responsible for some portions of their monthly mobile expense. General rate plans are selected by and absorbed by the City.

#### **4.4.2 Personal Cell Phone/Mobile Devices**

Certain security measures are in place on City issued devices which cannot be enforced on personal devices. **Access to City email accounts is only to be setup on city issued phones, and not on personal devices without the approval of the Director and the City Manager.**

Use of personal cell phones for employees not qualifying for City provided cell/mobile devices should be limited to break and personal times. Use of personal devices while on the job is prohibited except for emergency situations and with the approval of Supervisor/Manager.

#### **5.0 Data Policy**

No removal or sharing of company information or files. Employees shall not remove data or files from the premises without approval from the department director, City Manager or IT Department. This includes, but is not limited to, print outs, reports, emails, floppy disks, CD-ROM, USB flash drive, or uploading to cloud storage. Employees shall not place company material (copyrighted software, internal correspondence, etc.) on any publicly accessible Internet computer without proper permission.

#### **5.1 Data Storage**

All laptops should have the hard drives encrypted to prevent theft of data in the event the laptop is lost or stolen.

When a device has reached its “End of Life” and is replaced or pulled from service, that device must have the hard drive removed and destroyed or “scrubbed” to remove any data from it. Devices include, but are not limited to, desktop computers, laptops, mobile devices, fax machines, and copiers.

## **6.0 Directors Responsibilities**

Technology has become an integral part of every department in some way. Each department director is asked to assist with the monitoring and enforcement of this policy.

### **6.1 Personnel Changes**

Department directors are responsible for notifying the IT Department in a timely manner of changes in personnel.

If a new person is hired, the director should notify the IT Department well before that persons start date to allow time for the account creation and configuration. This also applies to when personnel transfer to a different position or department.

If an employee quits or is terminated, the department director should notify the IT Department immediately so that the account may be disabled. Failing to disable an account immediately for someone no longer employed by the City is a huge security issue.

## **7.0 Social Networking**

As social networking sites like but not limited to Facebook, and Twitter become intertwined with government uses, The City has developed this Social Networking Policy.

The absence of, or lack of explicit reference to a specific site does not limit the extent of the application of this policy. Where no policy or guidelines exist, employees should use their professional judgment and take the most sensible action possible.

### **7.1 City or Department Social Networking Sites**

If the City, or a Department of the City, has a Social Networking Site it must be consistent with applicable state, federal, and local laws, regulations, and policies. This includes any applicable Records Retention and Disposition Schedules or policies, procedures, standards, or guidelines provided by the Department of Cultural Resources.

Like e-mail, communication via agency-related social networking web sites is a public record. This means that both the posts of the site administrator and any feedback by other employees or non-employees, including citizens, will become part of the public record. Because others might not be aware of the public records law, agencies should include the following statement (or some version of it) somewhere on the social networking Web site: "Representatives of The City of Kings Mountain government communicate via this Web site. Consequently, any communication via this site (whether by a City employee or

the general public) may be subject to monitoring and disclosure to third parties.”

The IT Department is to keep a record of all Social Network accounts and have a list of approved users and the passwords for each account upon creation. If you create a City or Department account, it is your responsibility to provide this information to the IT Department. These records are only to be used by the IT Department for emergency issues such as a hijacked or corrupt site, not for regular maintenance.

## **7.2 Personal Social Networking Sites**

Employees and elected officials should be mindful of blurring their personal and professional lives when administering social media sites. Employees are allowed to have personal social networking sites. These sites must remain personal in nature. Ensuring a distinction between sharing personal and agency views. In addition, employees should never use their City e-mail address or password in conjunction with the creation or authentication of a personal social networking site. Employees may use personal social networking for personal communications so long as those communications do not interfere with their work and are kept to a reasonable amount of use. “Reasonable” will be defined by each department head.

## **8.0 Public Records and Retention**

### **8.1 Definition**

A public record is defined by the North Carolina General Statutes in chapter 132 § 132-1. "Public records" defined.

(a) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.

(b) The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public

information free or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information.

## **8.2 Retention/Archiving**

Public Records are archived to meet retention laws stated in North Carolina General Statutes in Chapter 121-5.

Below is a section from 121-5 that discusses specifically the destruction of records.

§ 121-5 (b). Public records and archives.

(b) Destruction of Records Regulated. – No person may destroy, sell, loan, or otherwise dispose of any public record without the consent of the Department of Natural and Cultural Resources, except as provided in G.S. 130A-99. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, mutilates, or destroys it shall be guilty of a Class 3 misdemeanor and upon conviction only fined at the discretion of the court.

## **8.3 Conducting City Business**

To be compliant with Public Records and Retention laws, the City has measures in place to archive primary City communication methods (which currently include email, social media, and text messaging). It is near impossible for The City to archive all possible means of communications and therefore states that employees are not to conduct City business using personal devices. This includes, but is not limited to, personal computers, personal email accounts, personal cell phones, personal text messaging, personal social media accounts, or other personal applications.

## **9.0 Policy Enforcement**

**Any employee found to have violated this policy may be subject to disciplinary action, up to and including termination of employment.**

When a violation is found, please report it to the appropriate department director first, then to the Human Resources Department, or the IT Department.

In order to keep current with technology, this policy may be revised as the City feels necessary, and every attempt to post changes will be taken. If something is not specifically stated in the policy, it does not necessarily mean that it is allowed. If something is ever in question, please speak with your department director, the Human Resources Department, or the IT Department.

## Appendix A – Definitions

**Cloud Storage** – storing digital information on hosted equipment by a third party, outside of the city network.

**Flash drive** - is a mass storage device. Flash drives are often used for the same purposes as floppy disks were.

**FTP** - short for File Transfer Protocol is a standard network protocol used to copy a file from one host to another over a network, such as the Internet.

**Internet** - is a global system of interconnected computer networks that use the standard Internet Protocol to serve billions of users worldwide

**Intranet** - is a private computer network that securely shares any part of an organization's information or operational systems within that organization.

**IT Department** - short for Information Technology Department and can mean either direct employees of the city or contracted staff assuming this role.

**Junk mail** - also known as SPAM, unsolicited bulk Email (UBE), or unsolicited commercial email (UCE), is the practice of sending unwanted e-mail messages to an indiscriminate set of recipients.

**MFA (Multi Factor Authentication)** – MFA is a security process whereby those that access the City network and various software applications must provide at least two different authentication factors to verify their identity before accessing the resources.

**Pornography** – Any material depicting sexual activity.

**Retention and disposition schedule** – a document that identifies and describes an organization's records, usually at the series level, provides instructions for the disposition of records throughout their life cycle. (SAA Glossary)

**Skype** - is a software application that allows users to make video voice calls over the Internet.

**Social networking** - the use of a variety of Web sites that allow users to share content, interact, and develop communities around similar interests. (Examples are: Facebook and Twitter)

**Smartphone** – A mobile phone offering advanced capabilities beyond a standard cell phone, often PC-like functionality. These phones require a data package.

**Standard cell phone** – A cell phone with the standard features to allow voice calling.

**Streaming** - multimedia that are constantly received by an end-user while being delivered by a streaming provider. (Examples: Listening to Online Radio Stations or watching a movie over the internet)

**Post** - comment made to a user's social networking page or site.

## Appendix B



### City of Kings Mountain Information Technology Policies User Agreement

#### Highlighted Points of the Information Technology Policy

- E-mail, Internet, and City issued Mobile Devices, and Computer systems are city property.
- All systems may be reviewed by the City Manager, HR Manager, or IT Department at any time.
- There is no expectation of privacy. Emails, Text Messages and any public record will be archived.
- Do not relocate computer equipment without IT Department approval.
- Employees are responsible for their computer and login.
- No unauthorized external access.
- Personal equipment is strictly prohibited from connecting to the city network.
- No downloading or installing software without IT Department authorization
- No Illegal use, pirated software, or malicious programs.
- Accessing personal web mail such as AOL, Hotmail, Google mail, and Yahoo mail is prohibited.
- Sending junk email is not allowed.
- Do not use your city email address to register for anything unless it pertains to city business.
- Viewing inappropriate websites or material is prohibited.
- **Viewing of pornography is prohibited and mandated by G.S. 143-805.**
- Streaming of internet audio and/or video is not allowed.
- Employees shall not remove data or files from the premises without approval from the department director, City Manager or IT Department.

Notify your department director first, then the Human Resources Department or the IT Department of any violations of this policy.

In order to keep current with technology, this policy may be revised as management feels necessary, and every attempt to post changes will be taken. If something is not specifically stated in the policy, it does not necessarily mean that it is allowed. If something is ever in question, please speak with your director first, then with the Human Resources Department, or the IT Department.

I have read and received the City of Kings Mountain Information Technology Policies and agree to abide by it and to be subject to its provisions. I understand that violation of any of these policies may result in disciplinary action and potential termination of employment. Please sign below and return to the Human Resources Department.

Printed Name of Employee: \_\_\_\_\_

Department: \_\_\_\_\_

Signature of Employee: \_\_\_\_\_

Date Signed: \_\_\_\_\_

# City of Kings Mountain Electronic Records and Imaging Policy

May 2024  
Version 1.0



NC DEPARTMENT  
OF NATURAL AND  
CULTURAL RESOURCES

Subject: \_\_\_\_\_ Resolution/Policy  
#: \_\_\_\_\_  
Effective date: \_\_\_\_\_ Adopted date: \_\_\_\_\_

Type of Government Office:             County     Municipal     State Agency      
Other\*

County/Municipality/Agency:    City of Kings Mountain

Name of Office:                        Administration Department

Office Address:                        101 West Gold Street Kings Mountain NC 28086

Phone:    704-734-0333    Fax:    n/a                        Email:    Karen.tucker@cityofkm.com

\*Includes assigned and unassigned offices (authorities, boards, bureaus, commissions, councils, private/public hybrid entities, etc.)

## **Purpose**

The records covered by this policy are in the custody of the City of Kings Mountain and are maintained for the benefit of agency use in delivering services and in documenting agency operations. This electronic records policy reflects guidelines established in the North Carolina Department of Natural and Cultural Resources publication *Guidelines for Managing Trustworthy Digital Public Records*.<sup>1</sup> Complying with this policy will increase the reliability and accuracy of records stored in information technology systems and will ensure that they remain accessible over time. Exhibiting compliance with this policy will enhance records' admissibility and acceptance by the judicial system as being trustworthy.

All public records as defined by North Carolina G.S. § 132-1 are covered by this policy. This includes permanent and non-permanent records, including both confidential and non-confidential records. These classifications may warrant different treatments when processing the records. This policy serves as basic documentation of the procedures followed by the department in imaging, indexing, auditing, backing up, and purging electronic records in accordance with the disposition schedule, and in handling the original paper records, if applicable.

This policy also serves to protect those records digitized by the agency's enterprise content imaging and management system (Etrieve as of the date of this policy), which reduces required storage space for original documents as the agency transitions to a "more paperless" digital system and provides instant and simultaneous access to documents as needed.

The form provided in Section 10 of this document, *Request for Disposal of Original Records Duplicated by Electronic Means*, is completed and submitted to the Department of Natural and Cultural Resources whenever this agency wishes to dispose of a series of paper records that have been digitized.

This policy will supersede any electronic records system policy previously adopted. This policy will be reevaluated periodically with a goal of every five years, or upon the implementation of a new information technology system, and will be updated as required. A copy of this policy will remain on file at the Department of Natural and Cultural Resources.

---

<sup>1</sup> <https://archives.ncdcr.gov/documents/guidelines-managing-trustworthy-digital-public-records>

## **1. Responsible Parties**

- Agency Supervisor/Division Director
- Managerial Staff
- IT Department
- Records Creators

### ***Agency Supervisor/Division Director***

Responsibilities include:

1. Determining access rights to the system
2. Approving system as configured by IT

### ***Managerial Staff***

*Responsibilities include:*

1. Ensuring training of records creators
2. Periodically auditing imaged records for accuracy, readability, and reproduction capabilities before the original documents are destroyed

### ***IT Department***

Responsibilities include:

1. Installing and maintaining equipment and software
2. Configuring the system according to agency needs, including creating and testing applications and indexes
3. Controlling permission rights to the system
4. Maintaining documentation of system hardware and software
5. Establishing audit trails that document actions taken on records stored by the information technology system
6. Providing backups for system records and recovering deleted imaged records when necessary
7. Completing a disaster recovery backup at least once every two years
8. Establishing and providing training on equipment and software, documenting such training, and providing remedial training as needed.
9. Creating and updating detailed procedural manuals describing the imaging process and equipment

### ***Records Creators***

Responsibilities include:

1. Attending and signing off on training conducted by IT staff or by the Department of Natural and Cultural Resources
2. Creating passwords for computers that are long, complex, and frequently changed
3. Creating and managing electronic records in their purview in accordance with the policies and other guidance issued by the Department of Natural and Cultural Resources and complying with all IT security policies

4. Reviewing system records annually and purging records in accordance with the retention schedule
5. Guaranteeing that records, regardless of format, be retained for the period of time required by local records retention schedules
6. Carrying out day-to-day processes associated with the agency's imaging program, including:
  - Designating records to be entered into the imaging system
  - Noting confidential information or otherwise protected records and fields
  - Removing transitory records from the scanning queue
  - Completing indexing guide form for each record being scanned
  - Reviewing images and indexing for quality assurance
  - Naming and storing the scanned images in designated folders
  - Once approved, destroying or otherwise disposing of original records in accordance with guidance issued by the Department of Natural and Cultural Resources
7. Public employees who have been approved to telecommute or use mobile computing devices must:
  - Comply with all information technology security policies, including the agency and statewide acceptable use policies, as well as all statutes and policies governing public records
  - Back up information stored on the mobile device daily to ensure proper recovery and restoration of data files
  - Keep the backup medium separate from the mobile computer when a mobile computer is outside a secure area

## **2. Availability of System and Records for Outside Inspection**

This agency recognizes that the judicial system may request pretrial discovery of the information technology system used to produce records and related materials. Agency personnel will honor requests for outside inspection of the system and testing of data by opposing parties, the court, and government representatives. Records must be available for inspection and audit by a government representative for the full period required by law and approved records retention schedules, regardless of the life expectancy of the media on which the records are stored. Records must continue to exist when litigation, government investigation, or audit is pending or imminent, or if a court order may prohibit specified records from being destroyed or otherwise rendered unavailable.

In order to lay a proper foundation for the purposes of admitting the agency's electronic records into evidence, the agency will be able to provide up-to-date, detailed documentation that describes the procedural controls employed in producing records; procedures for input control including tests used to assure accuracy and reliability; and evidence of the records' chain of custody. In addition to this policy, such documentation includes:

- Procedural manuals
- System documentation
- Training documentation

- Audit documentation
- Audit trails documenting access permission to records

The agency will also honor inspection and copy requests pursuant to N.C. G.S. § 132. The agency should produce the records created and used in the course of business, maintaining established folder structure as applicable. The agency should produce records in any format it is capable of producing if asked by the requesting party; however, the agency is not required to create or compile a record that does not already exist. If it is necessary to separate confidential from non-confidential information in order to permit the inspection or copying of the public records, the public agency will bear the cost of such separation.

### **3. Maintenance of Trustworthy Electronic Records**

- Produced by Methods that Ensure Accuracy
- Maintained in a Secure Environment
- Associated and Linked with Appropriate Metadata
- Stored on Media that are Regularly Assessed and Refreshed

#### ***Produced by Methods that Ensure Accuracy***

All platforms used by the agency to create and manage electronic records, including e-mail systems, social media platforms, and cloud computing platforms, conform with all Department of Natural and Cultural Resources policies and all applicable Information Technology security policies.

Electronic files are named in accordance with the *Best Practices for File Naming* published by the Department of Natural and Cultural Resources.<sup>2</sup>

File naming should follow these standards:

- File naming must be consistent to facilitate future discovery and use of the file within the agency.
- Special characters are not used. Special characters include: \ / : \* ? “ < > [ [ ] & \$ , .
- File names should be less than 25 characters. Long names may create problems with file storage systems.
- File names should be descriptive to determine the purpose of the file independent of the stored location.

Electronic files are saved in formats that comply with DNCR’s *File Format Guidelines for Management and Long-Term Retention of Electronic Records*.<sup>3</sup> File formats used by

---

<sup>2</sup> <https://archives.ncdcr.gov/documents/best-practices-file-naming>

<sup>3</sup> <https://archives.ncdcr.gov/documents/file-format-guidelines-management-and-long-term-retention-electronic-records>

the agency are identified as standard by DNCR and are well-supported, backwards compatible, and have robust metadata support.

### ***Maintained in a Secure Environment***

Security of the system and the records it holds is maintained in the following ways:

- Access rights are managed by the IT department and are assigned by a supervising authority to prevent unauthorized viewing of documents.
- Either the information technology system is able to separate confidential from non-confidential information, or data creators must organize and name file systems in such a way to identify confidentiality of the documents.
- Folders with confidential information are restricted, and access rights to confidential data are carefully managed. Confidential material may be redacted using recommendation from the City Attorney before it is shared or otherwise made available.
- Physical access to computers, disks, and external hard drives is restricted.
- All system password and operating procedure manuals are kept in secure off-site storage.

### ***Associated and Linked with Appropriate Metadata***

Metadata is maintained alongside the record. At a minimum, metadata retained includes file creator, date created, title (stored as the file name), and when appropriate, cell formulae and e-mail header information. Employees are not instructed to create metadata other than metadata that is essential for a file's current use and/or retention.<sup>4</sup>

### ***Stored on Media that are Regularly Assessed and Refreshed***

Data is converted to new usable file types as old ones become obsolete. The following steps are taken to ensure the continued accessibility of records kept in electronic formats:

- Data is audited and assessed annually. If there is evidence of file corruption, data should be migrated to new media.
- Records are periodically verified through hash algorithms. This is required before and after transfer to new media to ensure the records were not altered.
- Media is refreshed every three to five years. The agency documents when and how records are transferred from one storage medium to another. Once the new media has been sampled to assure the quality of the transfer, the original media may be destroyed according to the guidelines of 07 NCAC 04M .0510.

---

<sup>4</sup> For more information, see DNCR's guidance document *Metadata as a Public Record in North Carolina: Best Practices Guidelines for Its Retention and Disposition* (<https://archives.ncdcr.gov/documents/metadata-public-record-north-carolina-best-practices-guidelines-its-retention-and>).

- Records are periodically migrated to new file types, particularly when a new information technology system requires that they be brought forward in order to render the file properly.
- Metadata is maintained during transfers and migrations.
- Storage media are maintained in a manner and in an environment that promotes bit-level preservation. Humidity does not exceed 50% and should not fall below 30%. Room temperature is set between 65° F to 75° F. The agency adheres to the media manufacturer's recommendations for specific environmental conditions in which the media should be stored.
- Whatever media is used to store data is clearly labeled with enough information that its contents can be determined (e.g., optical media should have a physical label; data stored on a server should be indexed).

#### **4. Components of Information Technology System**

- Training Programs
- Audit Trails
- Audits

##### ***Training Programs***

The IT department and/or Administration department will conduct training for system use and electronic records management, using material published by system vendors and the Department of Natural and Cultural Resources when appropriate. All employees will be made aware of system procedures and policies and trained on them; employees will acknowledge by initialization or signature that they are aware of the policies and have received training on them. When appropriate, employees will also attend trainings offered by the Department of Natural and Cultural Resources on the maintenance of electronic records. Documentation will be maintained for the distribution of written procedures, attendance of individuals at training sessions and refresher training programs, and other relevant information.

##### ***Audit Trails***

At a minimum, the IT department will maintain documentation on who has read and/or write permission to files maintained by the agency. Ideally, a log of activities on the system is maintained, which shows who accessed the system, how and by whom records were created and modified, and whether standard procedures were followed.

##### ***Audits***

Audits are designed to evaluate the process or system's accuracy, timeliness, adequacy of procedures, training provided, and the existence of audit trails. Internal audits should be conducted by agency staff.

## **5. Documentation of Information Technology System**

**[Describe what is contained within system documentation, who maintains it, and its retention period.]**

- System Design
- Retention of System Documentation

### ***System Design***

The agency maintains documentation that describes system procedures, practices, and workflows. This documentation also identifies system software and hardware and captures the system environment in terms of the organizational structure, functions and responsibilities, and system processes. It explains how the system operates from a functional user and data processing point of view. Documentation is reviewed and updated by IT staff as needed or upon implementation of a new information technology system. Such documentation maintained by the agency includes:

- Procedural manuals
- System documentation
- Security backup and disaster recovery procedures as a part of the Continuity of Operations Plan
- Service level agreements for contracted information technology services

### ***Retention of System Documentation***

One set of all system documentation will be maintained during the period for which the records produced by the process or system could likely be subject to court review and until all data created by every system instance has been destroyed or transferred to a new operating environment. All such documentation is listed in the general and municipal records retention schedule.

## **6. Digital Imaging Program Documentation and Procedures**

- System and Procedural Documentation
- Training
- Indexing and Metadata
- Auditing and Audit Trails
- Retention of Original and Duplicate Records

### ***System and Procedural Documentation***

The IT department is responsible for preparing and updating detailed procedures that describe the process followed to create and manage imaged electronic records. This documentation will include a description of the system hardware and software. A current procedural manual will be maintained to ensure the most current steps are followed and to ensure reliable system documentation will be available for judicial or similar proceedings.

Each workstation designated as a scanning station will have, at a minimum, the following hardware and software, unless the scanner is collocated by means of a network interface:<sup>5</sup>

- Document/image scanner authorized by IT. Preferably a local Fujitsu scanner.
- Driver software for scanner - Fujitsu
- Imaging software – Etrieve
- Instructions manual describing in detail the steps required in the scanning process.

This manual will also define:

- The resolution of scanned images, as well as any compression standard used
- The file formats of scanned images
- The file naming conventions used for scanned images

### ***Training***

Only designated staff that have been formally trained by IT staff or by another system user; and have signed off on training documentation on the use of the imaging software and equipment will be allowed to scan records. Components of the training will include basic techniques for image capture, indexing, quality control, security configuration, auditing, use of equipment, and general system maintenance. Permissions to image and index records will not be assigned until the user has been trained. If a user improperly indexes or scans a document, an auditor will address this occurrence with the user, and remedial training may be required.

### ***Indexing and Metadata***

All imaged records must be indexed in order to facilitate efficient retrieval, ease of use, and up-to-date information about the images stored. This index should capture the content, structure, and context of the imaged records and will be developed by IT staff in consultation with the department performing the scanning prior to the implementation of any imaging system. Metadata will be maintained in accordance with the guidelines provided in Section 4, *Maintenance of Trustworthy Electronic Records*.

### ***Auditing and Audit Trails***

Staff trained to conduct imaging will conduct a quality control audit following the imaging of a record to ensure that the following features of the imaged record are legible:

- Individual letters, numbers, and symbols
- Combinations of letters, numbers, and symbols forming words or sentences
- Graphics such as signatures, logos, and pictures
- Other features of records such as color, shape, texture, etc., that relate to the content of the information

Managerial staff for the various units of the agency will also periodically audit imaged records for accuracy, readability, and reproduction capabilities. Written quality control

---

<sup>5</sup> If your scanner is networked, you will only have one response to each of the first three items. If you have separate workstations throughout your agency, we recommend an inventory that specifies the equipment and software used at each workstation.

documentation will be prepared indicating the sampling of records and what remedial procedures were followed if the expected level of accuracy was not achieved. Managerial staff will document by position title employees that have the authority to complete each of the tasks listed.

### ***Retention of Original and Duplicate Records***

To obtain permission to destroy original records following imaging, this agency will complete Section 10 of this document, *Request for Disposal of Original Records Duplicated by Electronic Means*. For each records series identified for scanning, the Department of Natural and Cultural Resources must approve the destruction of the original records. Permanent records may be imaged for ease of access, but the original documents may not be destroyed unless an analog copy exists prior to the records' destruction.<sup>6</sup>

Destruction of original records is allowed only after quality assurance has been conducted on the imaged records, necessary corrections have been made, the electronic records system is audited for accuracy, and the destruction of records has been approved. If digital images replace the original records and assume all legal authorities, these scanned records will be considered the record copy and must be maintained for the specified retention period defined in the appropriate records retention and disposition schedule.<sup>7</sup> The retention period is considered to have begun when the original document was created, not when the electronic version was produced. Any hard copy generated from the imaged records will be considered the agency's duplicate "working" record or reference copy.

## **7. Other Electronic Records Management Practices**

- System Planning
- Shared Drive Management
- Security and Disaster Backup and Restoration

### ***System Planning***

#### ***Media format: traditional paper and electronic systems***

Traditional paper media is used when necessary for document storage and to meet business needs. When practicable, and to facilitate efficiency in business process, reduction of physical storage space, and reduce costs associated with paper media, records shall be planned for storage with electronic systems. Paper may be used for temporary business purposes, to collect information such as signatures or other customer

---

<sup>6</sup> Any permanent records maintained in electronic form must also exist as a paper or microfilm preservation duplicate copy in compliance with the Department of Natural and Cultural Resources *Human-Readable Preservation Duplicates* policy.

<sup>7</sup> The Society of American Archivists *Glossary of Archival and Records Terminology* defines record copy as "the single copy of a document, often the original, that is designated as the official copy for reference and preservation." Available at <http://www2.archivists.org/glossary/terms/r/record-copy>.

data, or where access to an electronic storage system is temporarily unavailable due to business process or workflow.

### ***Hardware and software updates and replacement***

Agency or department hardware and software are considered for replacement when business needs indicate. The software system is evaluated on a regular basis and agency or department management determine if the system should be replaced. The IT Department is consulted when a software system is planned for replacement. Computer and storage systems are evaluated by IT and budgeted on an annual basis to maintain the operation of the hardware and capabilities necessary to support the software systems. End-user computers (desktops, laptops and tablets) are scheduled for replacement every 5 years or when functionally obsolete as budgets allow.

Large network storage and computing systems replacements are scheduled when it is determined that the hardware has reached the end of functional life or is insufficient to meet business needs.

### ***Shared Drive Management***

Employees use shared storage for collaboration and access. Procedures for the use of this shared storage comply with DNCR's guidance document *Global Shared Storage Guidelines*.<sup>8</sup>

### ***Security and Disaster Backup and Restoration***

Backups to protect against data loss and aid in restoration, are generated for all but the most transitory of files. Routine backups are conducted daily, weekly, monthly and are stored at a secure site with a backup copy stored at a secondary site, still on-site but across the city. Future plans may expand to synchronize to a secured offsite location.

### ***Vendor-Provided Services/Hosted Solutions***

Etrieve documents are stored off-site by Softdocs in a cloud/hosted system. Routine backups are conducted by the vendor, Softdocs. Below is the detail of what is backed up, and how often.

---

<sup>8</sup> <https://archives.ncdcr.gov/documents/global-shared-storage-guidelines>

## Data Backup and Retention

Backups are an essential part of Etrieve Cloud and core to protecting your data. Softdocs has provided the general policies listed below in relation to the use of backups within the Etrieve Cloud offering.

### What data is being backed up?

There are five areas that Softdocs has focused on in relation to backups. The areas are outlined and described below.

**Table 1: Storage Definitions**

Storage Purpose	Description
Content Repository	Etrieve Content documents reside on Azure geo-redundant storage. This data is replicated three (3) times in the primary region and three (3) times in the secondary region.
Imports	Etrieve Content import files reside on Azure geo-redundant storage. This data is replicated three (3) times in the primary region and three (3) times in the secondary region.
Databases	Etrieve Content, Etrieve Central, and Etrieve Security databases reside on an Azure SQL Database server. Azure SQL Database is a Database as a Service offering that uses Azure Storage and its geo-redundant features to provide resiliency and durability.
Web Server	Windows Server-based virtual machines support the runtime operation of Etrieve. The OS disk is a standard Windows Server image that resides on locally redundant Azure storage and is replicated three (3) times.
Application	Application binaries and other files supporting the runtime operation of Etrieve reside on Azure geo-redundant storage. This data is replicated three (3) times in the primary region and three (3) times in the secondary region.

### How often is data being backed up?

The backup frequency of each storage area varies based on how it is used and operates. The table below outlines the storage type and backup frequency.

**Table 2: Backup Frequency**

Storage Purpose	Backup Frequency
Content Repository	Daily
Imports	Daily
Database	Hourly
Web Server	Maintenance Window Only
Application	Maintenance Window Only

### How long will Softdocs retain the backups?

Softdocs believes that, in most cases, 30 days is sufficient for meaningful recovery of data. The following table outlines the number of days or backups that are maintained for each storage type.

**Table 3: Storage Retention Policy**

Storage Purpose	Backup Retention Period
Content Repository	30 days
Imports	30 days
Database	30 days
Web Server	2 Maintenance Windows
Application	2 Maintenance Windows

The terms of the service level agreement with Softdocs detail:

- Access rights/security mechanisms
- Backups (specify frequency and location)
- Disaster recovery procedures
- Performance/availability (e.g., planned and unplanned downtime)

## 8. Compliance and Electronic Records Self-Warranty

The completion of this form by all signing employees certifies that all employees will adhere to the rules set forth in this policy. Furthermore, this section is to be used as a self-evaluation tool to ensure that electronic records produced by the agency are created, reproduced, and otherwise managed in accordance with guidelines for electronic public records published by the North Carolina Department of Natural and Cultural Resources. [The self-warranting of records in itself does *not* authorize the destruction of records, originals or copies, *nor* does it change current records retention and disposition scheduling procedures. Destructions of records are authorized when your agency approves the current retention and disposition schedule(s). If scanned records are intended to take the place of original paper records, local agencies must submit the *Request for Disposal of Original Records Duplicated by Electronic Means* form.] Each signatory should initial each element for certification, print his/her name on the Approved by line, fill in the job title, and sign and date the form.

## Records Custodian/Employee

The records custodian is the person responsible for creating records or managing the staff who create records.<sup>9</sup> The records custodian certifies that:

\_\_\_\_\_ The records created or duplicated by electronic means in this office are prepared in accordance with these guidelines as indicated by the following statements:

- Quality - Records are legible, accurate, and complete.
- The records are produced or reproduced as part of a regularly conducted activity.
- The records conform to DNCR guidance regarding file formats, file naming, and if applicable, digital preservation guidance produced by DNCR.
- Detailed, documented procedures are in place and followed when the records are created, copied, modified, or duplicated.
- The person who creates, copies, modifies, or duplicates records receives formal training on detailed system procedures prior to records preparation.
- Details of the training received are adequately documented through written policies and procedures.
- Employees sign training records after receiving training.

\_\_\_\_\_ This agency will comply with the best practices and standards established by the Department of Natural and Cultural Resources as published on its website.

\_\_\_\_\_ This agency will submit to the Department of Natural and Cultural Resources Section 10 of this policy, *Request for Disposal of Original Records Duplicated by Electronic Means*, to seek approval for the destruction of original records that have been converted from paper to electronic record.

\_\_\_\_\_ Affected records creators will be trained on the proper creation and maintenance of electronic records.

\_\_\_\_\_ Imaged records will be periodically audited for accuracy, readability, and reproduction capabilities before the original documents are destroyed.

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

## IT Professional

The IT Professional is the person responsible for providing technical support to the records custodians and who may be involved in infrastructure and system maintenance.

\_\_\_\_\_

<sup>9</sup> G.S. § 132-2 specifies, "The public official in charge of an office having public records shall be the custodian thereof." G.S. § 160A-171 specifies that the city clerk is the custodian of all city records. Therefore, the individual signing this section will likely be the clerk at the local level or the head of the organizational unit.

In the absence of an IT department, the supervisor of the records custodian should verify the following items. The IT Professional certifies that:

\_\_\_\_\_ Audit trails document the identity of the individual who creates, duplicates, modifies, or otherwise prepares the records, what actions are taken by the individual during the course of the process, when these actions are taken, and what the results of these actions are.

\_\_\_\_\_ Audits:

- are performed periodically to confirm that the process or system produces accurate results.
- confirm that procedures followed are in accordance with the agency's documentation.
- are performed routinely on files to ensure no information has been lost.
- are performed by an independent source (i.e., persons other than those who create the records or persons without an interest in the content of the records. Acceptable sources may include different department or authorized auditing authority).
- are adequately documented.

\_\_\_\_\_ The process or system hardware and software are adequately documented.

\_\_\_\_\_ Permanent records conform to all file format, file naming, and digital preservation guidance produced by the Department of Natural and Cultural Resources.

\_\_\_\_\_ Backup procedures are in place and comply with best practices as established by the Department of Natural and Cultural Resources.

\_\_\_\_\_ Successful disaster recovery backup is completed at least once every two years.

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

**Department Head**

The agency supervisor or division director is the person responsible for approving internal policies and procedures related to the creation and maintenance of electronic records. The agency supervisor/division director certifies that:

\_\_\_\_\_ Determinations are made regarding employees' permission rights to the electronic records system.

\_\_\_\_\_ IT's configurations for the electronic records system are reviewed and approved before the electronic records system becomes operational.

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

**FOR DEPARTMENT OF NATURAL AND CULTURAL RESOURCES USE**

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

**9. Request for Disposal of Original Records Duplicated by Electronic Means**

This form (on the following page) is used to request approval from the Department of Natural and Cultural Resources to dispose of **non-permanent** paper records that have been scanned, entered into databases, or otherwise duplicated through digital imaging or other conversion to a digital environment. This form does not apply to records that have been microfilmed or photocopied.<sup>10</sup>

\_\_\_\_\_

<sup>10</sup> Please contact a Records Analyst with any questions about the destruction of original paper records.



## **Section 8. Employee Appeal**

An appeal is used to review whether a disciplinary action and/or employment decision should be overturned or changed.

Employees are eligible to request an appeal once they have completed their initial probationary period in response to a disciplinary action.

The City of Kings Mountain offers you the right of appeal in accordance with the grievance procedure (Article X. Section 4.)

Employees shall be required to request an appeal within five calendar days from written notice of a disciplinary action.

## **ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL**

### **Section 1. Policy**

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

### **Section 2. Grievance Defined**

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

### **Section 3. Purposes of the Grievance Procedure**

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

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

- Increasing the sense of responsibility exercised by supervisors in dealing with their employees.

#### **Section 4. Procedure**

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

**Informal Resolution** Prior to the submission of a formal grievance, the employee and supervisor should meet to discuss the problem and seek to resolve it informally. Either the employee or the supervisor may involve the respective Department Director as a resource to help resolve the grievance.

Step 1. If no resolution to the grievance is reached informally, the employee who wishes to pursue a grievance shall present the grievance to the appropriate supervisor in writing. The grievance must be presented within fifteen calendar days of the event or within fifteen calendar days of learning of the event or condition. The supervisor shall respond to the grievance within ten calendar days after receipt of the grievance. The supervisor should, and is encouraged to, consult with any employee of the City in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

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

Step 2. If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal, in writing, to the appropriate Department Director within ten calendar days after receipt of the response from Step 1. The Department Director shall respond to the appeal, stating the determination of decision within ten calendar days after receipt of the appeal.

Step 3. If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the City Manager or designee within ten calendar days after receipt of the response from Step 2. The City Manager or designee shall respond to the appeal, stating the determination of decision within

ten calendar days after receipt of the appeal. The decision of the City Manager or designee shall be the final decision. The City Manager would notify the City Council of any impending legal action.

Role of the Human Resources Director. Throughout the grievance procedure, the roles of the Human Resources Director shall be as follows:

- To advise parties (including employee, supervisors, Department Directors and City Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
- To be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents.
- To give notices to parties concerning timetables of the process, etc.;
- To assist employees, supervisors and Department Directors in drafting statements and
- To facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process.

The Human Resources Director shall also determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.

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

### **Section 1. Public Information**

In compliance with GS 160A-168, the following information with respect to each City employee is a matter of public record: name; age; date of original employment or appointment to the service; current position title; current 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, subject only to such rules and regulations for the safekeeping of public records as the City may adopt. Public information should be requested by completing the appropriate form and submitting it to the City Clerk.

### **Section 2. Access to Confidential Records**

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

- 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.
- A 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 material in the employee's personnel file.
- By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- 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.

- 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.
- 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, as a record for public inspection, and shall become a part of the employee's personnel file.

### **Section 3. Personnel Actions**

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

### **Section 4. Records of Former Employees**

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

### **Section 5. Remedies of Employees Objecting to Material in File**

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

### **Section 6. Penalties for Permitting Access to Confidential Records**

Section 160A-168 of the General Statutes 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.

### **Section 7. Examining and/or Copying Confidential Material Without Authorization**

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

### **Section 8. Destruction of Records Regulated**

No public official may destroy, sell, loan or otherwise dispose of any public record, except in accordance with GS 121.5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Chapter 132.3 of the General Statutes.

## **ARTICLE XII. SECURITY**

The City reserves the right to implement new policies and/or procedures, which may be with or without notice, in order to ensure public safety and to provide for the protection, health, and well being of employees and citizens. All policies and procedures are subject to the approval of the City Manager.