

Chapter 54 - PERSONNEL^[1]

Footnotes:

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Cross reference— Officers and employees, § 2-66 et seq.; duties of animal control officer, § 6-27; appointment of cemetery sexton, § 18-28; fire department, § 30-66 et seq.; chief of the fire department, § 30-69; fire department station chief, § 30-70; police department, § 42-26 et seq.; authority of the chief of police, § 42-28.

ARTICLE I. - PERSONNEL SYSTEM^[2]

Footnotes:

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Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended the title of art. I to read as set out herein. Former art. I was titled In General.

Sec. 54-1. - Purpose.

The purpose of the personnel ordinance from which this section is derived is to establish a system of personnel administration which will permit the city to recruit, select, develop and maintain an effective, efficient and responsible work force under the direction of the city manager.

(Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-2. - Coverage.

The provisions of this chapter shall be applicable as follows:

- (1) All employees considered regular, full-time shall be covered completely, except the city manager, who shall be exempt from articles IX, X and XI.
- (2) Employees considered regular, part-time are exempt from article VII, sections 54-413, 54-418, 54-239, 54-242, 54-248; article VIII, section 54-279.
- (3) Elected officials and members of appointed advisory boards and commissions are exempt unless specifically included.
- (4) Service providers are exempt unless specifically included.
- (5) Employees considered temporary, full-time except seasonal employees, are exempt from article VII, sections 54-231—54-233, 54-238—54-242, 54-248; article VIII, sections 54-271—54-274, 54-277—54-282.
- (6) Employees considered temporary, part-time are exempt from article VII, sections 54-231—54-233, 54-238—54-242, 54-248; article VIII, sections 54-271—54-274, 54-277—54-282.
- (7) Seasonal employees are exempt from article V, section 54-157; article VII, sections 54-231—54-233, 54-238—54-242, 54-248; article VIII, sections 54-271—54-275, 54-277—54-282.

(Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-3. - Definitions.

Unless otherwise specifically provided or unless otherwise clearly required by the content, the words and phrases defined below shall have the meaning indicated when used in this chapter.

Classification plan means the official document of the city which reflects the orderly grouping of positions according to the kind of work, level of difficulty and responsibility, and the skills, knowledge and abilities required.

Completed month means any month in which an employee works at least one-half of the work days.

Completed year means a period of 12 calendar months in which the employee is in an active pay status or is receiving workers' compensation payments while on leave without pay.

Demotion means a move or change from one classification to another classification which is assigned a lower salary grade, normally with a decrease in the degree of duties and responsibilities. Demotions may be either voluntary or involuntary.

Disciplinary action means any action that impacts adversely upon an employee and that is taken in response to the conduct of that employee. Disciplinary action may range in seriousness up to and including dismissal.

Employee means a person who performs personal services for the city in return for some form of compensation and who is treated as an employee for purposes of withholding Social Security or tax payments in accordance with federal or state regulations.

Exempt personnel means employees who, by virtue of their position and/or job duties are exempt from the overtime provisions of the Fair Labor Standards Act (FLSA).

Full-time employment means employment, whether regular or temporary, in which an employee works the number of hours per week designated by the board of aldermen as full-time. For purposes of this chapter, full-time employment shall consist of an average work week of at least 40 hours (42 for sworn police personnel and 56 for fire personnel).

Grant funded means positions which are supported by financial grants or other special funding. Individuals occupying these positions are appointed for a specific period of time to perform particular services on behalf of the city. Employees may or may not be entitled to benefits, depending on the provisions of the grant. These positions may be of longer duration due to the renewal of the grant or special funding.

Grievance means a claim or a complaint 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. A grievance might involve alleged safety or health hazards harassment as defined by the sexual and other unlawful harassment policy, unfair or discriminatory supervisory practices, unjust treatment by fellow workers, unreasonable work quotas, or any other grievance relating to conditions of employment. However, a particular disciplinary action shall not be regarded as the basis for a grievance.

Immediate family means the spouse, parent, children, brother, sister, grandparent, grandchild mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandmother-in-law, grandfather-in-law, stepmother, stepfather, step grandmother, step grandfather or stepchild of the employee.

Non-exempt personnel means employees who, by virtue of their position and/or job duties are subject to the overtime provisions of the Fair Labor Standards Act (FLSA).

Officials means the mayor, members of the board of aldermen and members of all other boards or commissions appointed by the board of aldermen.

Overtime work means work performed by non-exempt personnel that exceeds the number of hours constituting an established pay week or period for that employee's position.

Part-time employment means employment, whether regular or temporary, in which an employee works less than the hours per week designated by the board of aldermen as full-time. For purposes of this chapter, part-time employment shall consist of an average work week of less than 40 hours per week on a full-time basis.

Pay plan means the official document of the city which assigns pay grades and salary ranges to the appropriate class titles.

Promotion means a change or move from one classification to another classification that is assigned to a higher salary grade with an increase in duties and responsibilities.

Reassignment means the move or change of an employee from one classification to either the same or a similar classification within the same grade to be continued in the same department which the employee was in at the time of the change.

Reclassification means the upward or downward movement or any movement of a position from one classification to another classification due to a substantial change in the position's duties, responsibilities, skills, knowledge or other job content.

Regular employee means an employee appointed to serve in a position for an indefinite duration.

Seasonal employee means persons employed by the city for special or seasonal work assignments.

Temporary employee means an employee who is appointed to serve in a position for a definite term or to fill a position that will cease to exist at the end of a definite term or upon the happening of a predictable circumstance or event.

Transfer means a lateral move or change, within the overall organization from one position classification to another classification in the same salary grade. Transfers may be either voluntary or involuntary.

(Ord. No. 1994-43, art. I, § 3, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Cross reference— Definitions generally, § 1-2.

Sec. 54-4. - Merit principle.

Persons will be recruited and selected for appointments and all other personnel transactions on the basis of ability, experience, training and other characteristics which best suit an individual to the job to be performed while fostering, promoting and maintaining equal employment opportunity.

(Ord. No. 1994-43, art. I, § 4, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, renumbered § 54-4 as § 54-7 and §§ 54-5—54-7 as §§ 54-4—54-6.

Sec. 54-5. - Responsibilities of the city manager.

The city manager, as the chief executive officer, has the responsibility for the implementation and execution of the city's personnel program. The city manager shall establish procedures and rules, not inconsistent herewith, as are necessary for the effective management of the personnel system. In the event the city manager chooses not to appoint a human resources director in accordance with section 54-6, the city manager shall serve as the human resources director.

(Ord. No. 1994-43, art. I, § 5, 7-26-94; Ord. No. 1997-42, § 2, 8-20-97; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-4.

Sec. 54-6. - Responsibilities of the human resources director.

The city manager may appoint a human resources director to assist in the establishment, maintenance and day-to-day administration of the city's personnel program. The human resources director is responsible to the city manager for all matters pertaining to personnel administration and shall operate as a functional manager, reviewing data and making recommendations to the city manager.

(Ord. No. 1994-43, art. I, § 6, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-4.

Sec. 54-7. - Violations of this chapter.

Any employee violating any provision(s) of the ordinance from which this chapter is derived shall be subject to disciplinary action, up to and including dismissal.

(Ord. No. 1994-43, art. I, § 7, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-4.

Secs. 54-8—54-30. - Reserved.

ARTICLE II. - CLASSIFICATION PLAN

Sec. 54-31. - Purpose.

The position classification plan provides a complete inventory of all positions in the service of the city, including accurate descriptions and specifications of each class. The classification plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities.

(Ord. No. 1994-43, art. II, § 1, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-32. - Composition.

The classification plan shall contain the following:

- (1) A grouping of positions in classes which are similar in difficulty and responsibility, and which can be equitably compensated within the same range of pay under similar working conditions;
- (2) Class titles descriptive of the work performed; and
- (3) Written specifications for each class of position outlining general duties, responsibilities, skills, knowledge, training and educational requirements.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-32 to read as set out herein. Former § 54-32 pertained to contents and was derived from Ord. No. 1994-43, art. II, § 2, adopted July 26, 1994.

Sec. 54-33. - Maintenance.

- (a) The human resources director shall be responsible for the on-going maintenance of the classification plan in order to ensure that all city job classifications are reviewed within a three-year period. Department heads shall be responsible for bringing to the human resources director's attention the need for new positions and material changes in the nature of duties, working conditions, responsibilities, or other factors affecting the classification of any existing position. The human resources director shall review any information brought to his/her attention and shall in return bring his/her recommendations to the attention of the city manager for disposition.
- (b) New positions shall be established with the approval of the board of aldermen. When the city manager finds that a substantial change has occurred in the nature or level of duties and responsibilities of an existing position resulting from a review by the human resources director, the city manager shall direct that the existing class specification be revised and reallocated or recommend reallocation of the position as may be appropriate.

(Ord. No. 1994-43, art. II, § 3, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-34. - Allocation of positions.

The city manager shall be ultimately responsible and the human resources director shall be responsible on an on-going basis for the assignment of each position covered by the classification plan based upon the assigned duties and responsibilities. All positions requiring the performance of the same duties and responsibilities shall be assigned to the same class and the same salary range.

(Ord. No. 1994-43, art. II, § 4, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-35. - Use of class titles.

Class titles are to be used in all personnel, accounting, budget appropriations and financial records. No person will be employed in a position under a title not included in the classification plan. Other job titles which are common to a department may be used in departmental routine; however, such job titles shall not substitute for the class title in official use.

(Ord. No. 1994-43, art. II, § 5, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-36. - Use of class specifications.

Class specifications are to be interpreted in their entirety in relationship to others in the classification plan. Particular phrases or examples are not to be isolated and treated as a full definition of a class. Specifications are deemed to be descriptive and explanatory of all the kind(s) of work performed and not necessarily inclusive of all the duties performed or to be performed.

(Ord. No. 1994-43, art. II, § 6, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-37. - Use of classification plan.

The classification plan is to be used:

- (1) As a guide in recruiting and examining applicants for employment;
- (2) In determining lines of promotion and in developing employee training and skills programs;
- (3) In determining salary to be paid for various types of work; and
- (4) In providing uniform job terminology which is understandable to city officials, management, employees and the general public.

(Ord. No. 1994-43, art. II, § 7, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-38. - Requests for reclassification.

Any employee who considers his/her position improperly classified should submit a request for "classification review" to his/her department head along with supportive documentation. The department head shall review such requests for justification and merit. Upon completion of initial review, the department head shall immediately submit the request along with all supportive documentation and his/her recommendations to the human resources director. After a complete study of the request, the human resources director shall forward a recommendation to the city manager. Employees will be notified as to the determination of the requests immediately upon the conclusion of the review, by the human resources director. Reclassification requests may also be initiated by the respective department heads.

(Ord. No. 1994-43, art. II, § 8, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-39. - Reclassified positions.

Upon reclassification of a position from one class to another class of the same, lower, or higher level, the method of filling the position will be determined in accordance with the policies regarding transfers, demotions, or promotions, as may be appropriate. However, when any position is developed by the assignment of higher level duties and responsibilities so that it warrants a higher classification, the city manager may place the employee in the higher classification.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-39 to read as set out herein. Former § 54-39 pertained to filling of reclassified positions and was derived from Ord. No. 1994-43, art. II, § 9, adopted July 26, 1994.

Sec. 54-40. - Amendment to the classification plan.

Classes of positions shall be added to and deleted from the classification plan upon the recommendation of the city manager and the approval of the board of aldermen. Upon amendment to the classification plan, the human resources director shall make written amendment to the classification plan and notify all department heads and other personnel affected by the amendment.

(Ord. No. 1994-43, art. II, § 10, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Secs. 54-41—54-60. - Reserved.

ARTICLE III. - PAY PLAN

Sec. 54-61. - General purpose.

The pay plan is a complementary document to the classification plan and is intended to provide competitive and equitable compensation for all positions when considered in relation to each other, to general rates of pay for similar employment in the private and public sectors in the area, to changes in the cost of living, and to financial conditions of the city. The pay plan includes a pay schedule, as adopted by the board of aldermen, and a schedule of pay ranges consisting of minimum, midpoint and maximum rates of pay for all classes of positions included in the classification plan.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-61 to read as set out herein. Former § 54-61 pertained to purpose; contents and was derived from Ord. No. 1994-43, art. III, § 1, adopted July 26, 1994.

Sec. 54-62. - Maintenance.

The human resources director shall be responsible for the on-going administration and maintenance of the pay plan. Each year, prior to the preparation of the annual budget, the human resources director shall secure information concerning the general level of salaries paid and fringe benefits provided to comparable municipal, county, state employees and the private sector, along with any changes in the cost of living for the area during the fiscal year and shall make recommendations to the city manager for such increases, decreases or amendments to the pay plan as deemed necessary to maintain the fairness, competitiveness and adequacy of the plan. The city manager, based upon recommendations of the human resources director and such other studies as deemed necessary, including the general financial conditions of the city, shall incorporate whatever recommendations he/she may feel necessary in the annual budget.

(Ord. No. 1994-43, art. III, § 2, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-63. - Transition to a new pay plan.

- (a) The following four principles shall govern the transition to a new pay plan:
- (1) No employee shall receive a salary reduction as a result of the transition to a new pay plan.
 - (2) An employee being paid at a rate below the minimum of the range for his/her respective class will have his/her salary adjusted to a rate at or below the minimum of the new range. An employee who is considered in a "trainee" status may remain at a salary below the minimum.
 - (3) An employee being paid at a rate above the maximum of the range for his/her respective class will remain at his/her present salary as long as the maximum rate is below his/her present salary rate. Such an employee is not eligible to receive salary increases as long as the maximum rate is below his/her present salary rate.
 - (4) An employee being paid at a within the new range assignment for his/her respective class will not receive any salary adjustments, except pay for performance increases, if applicable.
- (b) In addition, the foregoing procedures do not take into consideration internal inequities or quality of performance. If implementing a new pay plan according to the foregoing procedures creates internal inequities, an employee may be considered for an administrative salary adjustment to a higher rate

of pay within the pay range. The extent of such an increase shall be determined and justified on an individual basis.

(Ord. No. 1994-43, art. III, § 3, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-64. - Payment within pay range.

All employees covered by the pay plan shall be paid at a rate within the pay range established for their respective position classification, except employees in a "trainee" status or employees whose present salaries are above the established maximum rate following transition to a new pay plan.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-64 to read as set out herein. Former § 54-64 pertained to payment to be at listed rate and was derived from Ord. No. 1994-43, art. III, § 4, adopted July 26, 1994.

Sec. 54-65. - Pay periods and direct deposit.

All employees shall be paid on a bi-weekly schedule on the Friday following the end of the respective pay period. Payment shall be made for all hours worked during a given pay period, including any overtime pay or other pay allowances as approved in the pay plan. Direct deposit of an employee's pay shall be made to the depository(s) named by the employee on the authorization form. When a regular payday falls on a scheduled holiday, payroll shall be direct deposited on the last workday before the holiday. Otherwise, payroll will not be released prior to the scheduled payday.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-65 to read as set out herein. Former § 54-65 pertained to pay periods and paychecks and was derived from Ord. No. 1994-43, art. III, § 5, adopted July 26, 1994.

Sec. 54-66. - Use of pay ranges; within range pay increase.

Pay ranges are intended to furnish administrative flexibility in recognizing individual differences among positions allocated to the same class in providing employee incentive and in rewarding employees for meritorious service. The following general provisions shall govern the granting of within-range increases:

- (1) The minimum rate established for the class is the normal hiring rate. The city manager may deviate from the normal hiring rate when he/she determines, based upon the joint recommendations of the respective department head and the human resources director, that the best interest of the city would be served because:
 - a. The qualifications of the applicant are higher than the experience, educational and/or training minimum qualifications for the classification;
 - b. There is a shortage of qualified applicants available at the minimum rate;
 - c. Qualified applicants refuse to accept employment at the minimum rate.
- (2) An employee promoted shall have the salary level set through negotiations with the human resources director and department head with the approval of the city manager.

- (3) Employees may receive education incentive payments in the form of bonuses or salary increases in accordance with the educational assistance program upon successful completion of an approved degree program. This incentive is subject to the availability of funds. (Refer to section 54-242 and educational assistance program policy)

(Ord. No. 1994-43, art. III, § 6, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 1999-67, 11-9-99; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-67. - Entrance at the minimum.

Each new employee who meets the minimum requirements for the classification which employed shall be employed at the minimum rate of the pay range to which the classification is allocated except:

- (1) If the new employee does not meet the minimum requirements of the position he/she may be designated as a "trainee" and employed at a salary below the minimum; or
- (2) If the city manager determines that there has been a demonstrated inability to recruit at the minimum salary or that an applicant possesses exceptional qualifications, the city manager may authorize the employment of an applicant at a higher rate than the minimum in the pay range.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-67 to read as set out herein. Former § 54-67 pertained to pay of new employees and was derived from Ord. No. 1994-43, art. III, § 7, adopted July 26, 1994.

Sec. 54-68. - Pay for trainee.

- (a) A new employee who does not fully meet the desirable education and experience requirements or who may lack certain abilities required to perform the work of the position to which hired, may be appointed with the recommendation of the respective department head, approval of the human resources director and approval of the city manager, as a "trainee" at a pay rate below the minimum of the pay range for the class to which appointed. Trainee pay rates should be set in consultation with the human resources director. An individual in a trainee pay status shall have his/her performance and progress on the job, as well as salary, reviewed closely at three-month intervals from the date of employment.
- (b) Employees in trainee status will remain in such status (not to exceed a maximum of 12 months) until the department head certifies and the human resources director approves the certification to advance the employee to the minimum rate of the appropriate range. The period of time referred to as a "trainee" status is probationary in nature and satisfactory performance is essential for continuation of employment. Employees in "trainee" status may be discharged if it becomes apparent that they cannot meet the desirable requirements or perform at the expected level of competence.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-68 to read as set out herein. Former § 54-68 pertained to pay of trainees and was derived from Ord. No. 1994-43, art. III, § 8, adopted July 26, 1994 and Ord. No. 1997-42, § 2, adopted August 26, 1997.

Sec. 54-69. - Pay for performance.

- (a) The city manager shall prepare or cause to be prepared, a plan providing for increased salaries based on demonstrated performance of the employees. Such plan shall be reviewed periodically and revised as needed.
- (b) The purpose of the plan is to support the city's mission by encouraging employees to develop and contribute to the maximum of their potential by compensating those employees based on job performance and assignment within the pay range.
 - (1) Employee performance reviews will be conducted on an annual basis. Upward movement within the established salary range for an employee is not automatic but rather based upon job as well as the employee's salary as it relates to salaries in the market. Procedures for determining performance levels and salary increases shall be established in procedures approved by the city manager. Pay for performance is subject to annual budget appropriation.
 - (2) Employees must meet the following criteria to be eligible for a performance based increase:
 - a. Must be a regular full-time or regular part-time employee who has completed the required probationary period.
 - b. Employees who are at the maximum of the salary range for their position classification are not eligible to be considered for a performance increase or performance bonus at their regular performance evaluation.
 - c. If an employee is in an interim position and/or receiving a temporary salary increase during the evaluation period, the employee will be eligible to receive a performance based increase based upon their previous salary and assignment within the pay range.
 - (3) The pay plan contains a number of salary grades that represent pay ranges with minimum, midpoint and maximum base pay rates. Classes are assigned to salary grades according to a job evaluation process which considers the internal relationships of classes and pay for similar jobs in the city's labor market.
 - (4) Advancement through a pay range is based on job performance as evaluated by an employee's supervisor and the employee's assignment within the pay range. The percentage of the performance based increase is based on the employee's position in the salary range and level of performance. The percentage of the increase will be determined by the department head in accordance with guidelines that have been set based upon budget appropriation.
 - (5) The following reflects the realities of the normal job growth curve:
 - a. Generally, if an employee's salary is between the minimum and the midpoint of the range, he/she is acquiring many basic job skills, knowledge, and abilities and demonstrating whether or not they have appropriate work habits and behaviors. Most employees in this range should make rapid progress in meeting standard job expectations. The pay plan is designed to move these employees up to midpoint. The lower in the range an employee is, the larger the percentage of increase for a specific level of performance.
 - b. Generally, if an employee's salary is between the midpoint and the maximum of the range, he/she is expected to have an increased level of knowledge, skills, and abilities based on training and experience. Employees in this range progress through the range at a slower pace. The higher in the range an employee is, the smaller the percentage of increase for a specific level of performance.
 - c. Employees whose performance falls below standards for the established evaluation period will not receive an increase.
 - (6) Additionally, since each pay range has a maximum base salary, an employee who is already receiving pay commensurate with his performance may only receive base pay adjustments up to that maximum of the range.
 - (7) Pay for performance increase percentages and effective dates will be determined each fiscal year depending upon budgetary appropriation.

- (8) All pay adjustments shall become effective on the first day of the respective pay period that follows the approval of the adjustment, unless the approval date and the first day of the respective pay period coincide, in which case the adjustment shall become effective on that date.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-69 to read as set out herein. Former § 54-69 pertained to incentive raises and was derived from Ord. No. 1994-43, art. III, § 9, adopted July 26, 1994.

Sec. 54-70. - Pay of reclassified employees.

An employee whose position is reclassified to a class having a higher pay range will receive a five percent salary increase, unless the increase will result in the employee's pay being above the maximum (in which case the salary can only be increased to the maximum), or will receive an increase to the minimum rate of the new pay range, whichever is higher. However, if the position is reclassified to a classification in the same or a lower pay grade, the employee's salary will remain unchanged.

(Ord. No. 1994-43, art. III, § 10, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-71. - Pay of promoted employees.

An employee promoted shall, at a minimum, receive a five percent salary increase or be increased to the minimum rate of the new pay range, whichever is higher. Deviations may be made by the city manager based on criteria set forth in subsection 54-66(a). Employees promoted will serve a six-month adjustment period in the new position and will be retained in the promoted position at the completion of the adjustment period or reinstated in the former position or in a position in the same class at the former salary, if such position is available.

(Ord. No. 1994-43, art. III, § 11, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-72. - Pay of transferred or reassigned employees.

The salary of an employee reassigned or transferred to a position in the same class or to a position in a different class with the same pay range shall not be changed by the reassignment. Employees reassigned or transferred will serve a six-month adjustment period in the new position. (Ord. No. 1994-43, art. III, § 12, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-73. - Pay of demoted employees.

The salary of an employee demoted shall be adjusted to the maximum of the new range or five percent below the former salary, whichever is lower (in no case will salary exceed the maximum of the new range). Employees who cannot successfully perform the duties of the position to which demoted are subject to dismissal. Employees demoted will serve a six-month adjustment period in the new position.

(Ord. No. 1994-43, art. III, § 13, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-74. - Pay for part-time employment.

Temporary and regular part-time employees will be paid on an hourly rate established for their respective position by the pay plan. Employees working part-time will be paid on the same schedule as all other employees.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-74 to read as set out herein. Former § 54-74 pertained to pay of part-time employees and was derived from Ord. No. 1994-43, art. III, § 14, adopted July 26, 1994.

Sec. 54-75. - Effective date of pay adjustments.

All pay adjustments shall become effective on the first day of the respective pay period that follows approval of the increase or adjustment, unless the approval date and the first day of the respective pay period coincide, in which case the adjustment shall become effective on that date.

(Ord. No. 1994-43, art. III, § 15, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-76. - Overtime compensation.

- (a) The administration of and compensation for overtime shall be in accordance with the overtime provisions of the Fair Labor Standards Act (FLSA) and regulations as established by the city manager in appropriate administrative policy. FLSA defines overtime as hours worked in excess of 40 during a work week (except law enforcement and fire).
- (b) Exempt personnel are not eligible for overtime compensation as mandated by the FLSA. Non-exempt personnel are eligible for overtime compensation as mandated by FLSA.
- (c) Sick leave, annual leave, civil leave, funeral leave and holiday pay will not be included as time worked in the computation of overtime.
- (d) No employee shall work overtime except when authorized by the department head or designee or city manager. Any variance from the provisions of this section. shall require the prior authorization of the city manager.

(Ord. No. 1994-43, art. III, § 16, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-77. - Standby pay.

- (a) Any employee who is specifically required for a specific period of time to be at home or in close contact so as to be available to answer emergency calls during off-duty hours shall be compensated for such inconvenience at the rate of one-hour per workday, Monday thru Friday; and one and one-half-hour per weekend day, Saturday or Sunday; at the employee's regular rate of pay. No additional time shall be allowed for holidays since supervisors are expected to rotate standby duty among qualified personnel.
- (b) Employees called back to work while on standby will receive pay for such call backs at the rate of one and one-half times their hourly rate with a minimum payment of one-hour. Call-back is defined as time which begins with the employee's call out and ends with his/her arrival at home.

(Ord. No. 1994-43, art. III, § 17, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-78. - Call-back pay.

Any hourly employee called in to work for any period not immediately before or after his normal work period shall receive call-back pay in the amount of one and one half times their hourly rate for all hours worked with a minimum of two hours. This provision does not apply to any employee on a standby basis.

(Ord. No. 1994-43, art. III, § 18, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-79. - Payroll deductions.

- (a) Federal and state income taxes, FICA (social security), Medicare taxes, retirement contributions, group health and life insurance premiums, contributions to 457(k) plan, 401(k) contributions and deductions, short term disability premiums, employee credit union deductions, United Way fund deductions and prorated garnishments are authorized payroll deductions. All other requests for payroll deductions shall be evaluated by the human resources director and approval for such additional deductions must be approved by the city manager.
- (b) In order for approval of such deductions to be justified:
 - (1) At least two-thirds of the full-time regular employees must request the deduction, or
 - (2) The deduction shall be of such a nature as to benefit, in the opinion of the city manager, the city work force, or
 - (3) The deduction must be authorized by the board of aldermen.

(Ord. No. 1994-43, art. III, § 19, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-80. - Improper pay deductions for exempt employees.

The city compensates employees in compliance with all applicable state and federal laws, specifically including the Fair Labor Standards Act (FLSA). The city prohibits improper deductions from the pay of exempt employees, and considers improper deductions as serious violations of city policy. Pursuant to the FLSA, the city provides a complaint process whereby exempt employees who think that their pay has been docked improperly can complain. If an employee notifies the city that he or she believes that an improper deduction has occurred, the city is committed to the prompt resolution of the complaint.

- (1) Subject to the exceptions listed below, an exempt employee must receive the full salary for any week in which the employee performs any work, regardless of the number of days or hours worked. Deductions from pay are permissible when an exempt employee is:
 - a. Absent from work for one or more full days for personal reasons other than sickness or disability;
 - b. Absent for one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for salary lost due to illness;
 - c. In receipt of amounts as jury or witness fees, or for military pay;
 - d. On an unpaid disciplinary suspension for one or more full days, imposed in good faith for workplace conduct rule infractions (see company policy on penalties for workplace conduct rule infractions);
 - e. In the initial or terminal week of employment;
 - f. Imposed penalties, in good faith, for infractions of safety rules of major significance; or
 - g. On unpaid leave under the Family and Medical Leave Act (FMLA). In these circumstances, either partial day or full day deductions may be made.

Deductions from pay are not permissible for:

- a. Variations in the quantity or quality of the employee's work; or
- b. Absences due to the operating requirements of the business;

If the employee is ready, willing, and able to work, deductions may not be made for time when work is not available.

- (2) If an employee believes that an improper deduction has been made from his/her salary, he or she should notify his/her department head or the human resources director within 24 hours of the time he or she becomes aware of the deduction. The department head or human resources director will suspend such deductions, investigate the complaint promptly, review the investigation results with the city manager and city attorney, and make a good faith determination as to whether the deduction was improper by no later than five work days or the next pay date, whichever occurs later. In the case of an improper deduction, the city will cease making the improper deduction and employees will be reimbursed for any improper deduction.
- (3) In the case of reimbursement for improper deduction, the city makes a good faith commitment to comply with the law in the future. A good faith effort will include providing notice to all department heads who supervise exempt employees. That notice will describe the improper deduction and its resolution and describe the potential impact for city loss by any future, and particularly repeated, improper deduction.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-80 to read as set out herein. Former § 54-80 pertained to personal delivery of checks by finance director; payroll audit and was derived from Ord. No. 1994-43, art. III, § 20, adopted July 26, 1994 and Ord. No. 1997-42, § 2, adopted August 26, 1997.

Sec. 54-81. - Final paychecks.

When an employee separates, either voluntarily or involuntarily, from the city, the employee's last paycheck shall be forwarded to the human resources department in order that an exit interview may be conducted and the employee's personnel file may be closed out. All paystubs will be issued on regular payday, regardless of whether the employee resigns or is discharged. Prior to the receipt of the final pay, it is the employee's responsibility to return all city equipment and property which has been issued. Employees failing to return issued equipment/property are subject to have the replacement cost deducted from their final pay.

(Ord. No. 1994-43, art. III, § 21, 7-26-94; Ord. No. 1997-42, § 1, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12; [Ord. No. 16-039, § 2, 8-9-16](#))

Editor's note— [Ord. No. 16-039, § 1, adopted August 9, 2016](#), repealed § 54-81, in its entirety; and § 2 renumbered § 54-82 as 54-81. Former § 54-81 pertained to "Finance director to pay," and was derived from Ord. No. 2012-178, § 1, 11-27-12.

Secs. 54-82—54-110. - Reserved.

ARTICLE IV. - EQUAL EMPLOYMENT OPPORTUNITY

Sec. 54-111. - Statement of policy.

The policy of the city is to foster, maintain and promote equal employment opportunity. The city shall hire and promote employees on the basis of applicants' qualifications and without regard to age, sex, race, color, religion, national origin, political affiliation, sexual orientation or disability as defined by the Americans with Disabilities Act. Applicants with mental or physical disabilities shall be given equal consideration as other applicants for positions in which their actual disability does not represent an unreasonable barrier to satisfactory performance of duties.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-111 to read as set out herein. Former § 54-111 pertained to general policy and was derived from Ord. No. 1994-43, art. IV, § 1, adopted July 26, 1994.

Sec. 54-112. - Policy review.

All personnel responsible for recruitment and employment shall continue to regularly monitor and review relevant practices to assure that equal employment opportunity, based on reasonable performance-related job requirements, is being actively observed, to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, national origin, political affiliation, sexual orientation or disability as defined by the Americans with Disabilities Act. Notices with regard to equal employment matters shall be posted in conspicuous places on city premises where notices are customarily posted.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-112 to read as set out herein. Former § 54-112 pertained to implementation of policy and was derived from Ord. No. 1994-43, art. IV, § 2, adopted July 26, 1994.

Sec. 54-113. - Reserved.

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, repealed § 54-113 in its entirety. Former § 54-113 pertained to authority to prescribe additional policies and procedures and was derived from Ord. No. 1994-43, art. IV, § 12, adopted June 26, 1994.

Sec. 54-114. - Recruitment sources.

All recruitment sources shall be advised periodically of the city's equal employment opportunity policy. The city shall include among its recruitment sources organizations and media which are utilized by and are available to minority group applicants. Information about job openings, employment qualifications and hiring practices shall be provided to all recruitment sources.

(Ord. No. 1994-43, art. IV, § 3, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-115. - Job advertisements.

Employment advertisements shall contain assurances of equal employment opportunity and shall comply with federal and state statutes regarding non-discrimination in employment matters.

(Ord. No. 1994-43, art. IV, § 4, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-116. - Employment applications (and interest cards).

All persons interested in employment with the city shall be given the opportunity to apply for positions when they are vacant and the city is actively recruiting. When the city is not recruiting or there are no open positions, persons may file an interest card with the human resources department. The human resources department shall issue additional instructional guidelines regarding applications and interest cards as well as be the official recipient of these documents.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-116 to read as set out herein. Former § 54-116 pertained to employment applications generally; interest cards and was derived from Ord. No. 1994-43, art. IV, § 5, adopted July 26, 1994 and Ord. No. 1997-42, § 1, adopted August 26, 1997.

Sec. 54-117. - Retainment of applications.

- (a) Applications shall be kept in a reserve file for a period of three years in accordance with equal employment opportunity commission guidelines.
- (b) To the extent that it is practical, reference to these files shall be made periodically in connection with the city's employment requirements to insure that equal consideration is given to all applicants.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-117 to read as set out herein. Former § 54-117 pertained to preservation of employment applications and was derived from Ord. No. 1994-43, art. IV, § 6, adopted July 26, 1994.

Sec. 54-118. - Qualifications and testing.

- (a) The city's policy includes the responsibility for insuring that hiring qualifications for both entry level and promotional level jobs are fair and shall continue to be fairly administered. Qualifications shall be reviewed periodically to assure that requirements conform to the actual job performance requirements and to changing situations.
- (b) In keeping with both these responsibilities, the city may hire applicants who may not be fully qualified for a particular job, provided that the deficiency can be eliminated through orientation and on-the-job training.
- (c) Tests administered by the city or by the state employment security commission for the city shall be only those that will measure the skills actually required for the job. Tests shall conform to applicable legal regulations and shall be appropriately validated.
- (d) All tests given to applicants shall be administered and evaluated by the human resources department, or by the employment security commission personnel who are fully acquainted with the city's policy on equal employment opportunity.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-118 to read as set out herein. Former § 54-118 pertained to qualifications and testing of applicants for

employment and was derived from Ord. No. 1994-43, art. IV, § 7, adopted July 26, 1994 and Ord. No. 1997-42, § 1, adopted August 26, 1997.

Sec. 54-119. - Compensation.

The policy of the city is to pay compensation which is competitive with local rates for the work performed so that compensation does not create a barrier to the recruitment of protected group applicants. Opportunities for performing overtime work or otherwise increasing compensation will be distributed as equally as practicable among employees in the same job class, department and shift, regardless of age, sex, race, color, religion, national origin, political affiliation, sexual orientation or disability as defined by the Americans with Disabilities Act. It is the policy of the city to pay all employees equally, based upon job classification, experience and ability.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-119 to read as set out herein. Former § 54-119 pertained to compensation policy and was derived from Ord. No. 1994-43, art. IV, § 8, adopted July 26, 1994.

Sec. 54-120. - Equal employment notices.

Notices with regard to equal employment matters shall be posted in conspicuous places on city premises in places where notices are customarily posted.

(Ord. No. 1994-43, art. IV, § 9, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-121. - Promotion and employment development.

- (a) Employees will be provided every reasonable means to succeed on their jobs and will be given opportunities to prepare themselves for full use of their talents and potential. On-the-job training will be provided to prepare employees to meet the full requirements of their new jobs, and special programs developed to meet specialized training needs.
- (b) Candidates for promotion shall be chosen on the basis of existing job openings, on their qualifications and on their work records without regard to age, sex, race, color, religion, national origin, political affiliation or disability as defined by the Americans with Disability Act. Performance evaluations and work records for all personnel shall be carefully examined when openings for positions in higher classifications occur.

(Ord. No. 1994-43, art. IV, § 10, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-122. - Records and reports.

- (a) The human resources director will maintain up-to-date records which reflect the city's efforts in equal opportunity employment. Such records will include data necessary to accomplish required reports under the provisions of the Equal Opportunity Act of 1972.
- (b) The EEO-4 report shall provide a basis for an analysis of the status of actual equal employment opportunity with the city and for an evaluation of progress made in this regard.

(Ord. No. 1994-43, art. IV, § 11, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-123. - Promulgation of policy.

The city manager shall have the right to promulgate additional equal employment opportunity and affirmative action policies and steps in order to carry out the city's commitment to equal employment opportunity.

(Ord. No. 2012-178, § 1, 11-27-12)

Secs. 54-124—54-150. - Reserved.

ARTICLE V. - RECRUITMENT AND EMPLOYMENT

Sec. 54-151. - Eligibility.

- (a) Individuals shall be recruited from a geographic area as wide as is necessary in order to obtain well-qualified applicants. Employment shall not necessarily be limited to residents of the city; however, in cases where residents and non-residents are equally qualified, the resident shall receive first consideration in the filling of vacancies.
- (b) All individuals shall be recruited, screened and employed on the basis of job-related experiences, job-related skills, education, knowledge and abilities, and on the candidates' general suitability to perform the required work.
- (c) Recruitment and employment of sworn police officers shall be governed by the city charter, by state law, and by applicable city ordinances.

(Ord. No. 1994-43, art. V, § 1, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-152. - Employment opportunities.

The human resources director shall publicize employment opportunities for all positions regular, temporary, part-time, or full-time including employment qualifications and pay ranges throughout the community, paying particular interest toward the recruitment of qualified individuals within protected groups. However, where practical, first opportunities for vacant positions which represent promotional opportunities shall be given to qualified persons employed with the city. Applications will be received and selections made without regard to age, sex, race color, religion, national origin, political affiliation, sexual orientation or disability as defined by the Americans with Disabilities Act. Applicants with disabilities shall be given equal consideration with other persons in all matters involving recruitment and employment to the extent that the disabilities do not present an unreasonable barrier to the satisfactory performance of duties.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-152 to read as set out herein. Former § 54-152 pertained to publication of employment opportunities and was derived from Ord. No. 1994-43, art. V, § 2, adopted July 26, 1994 and Ord. No. 1997-42, § 2, adopted August 26, 1997.

Sec. 54-153. - Discrimination prohibited.

The city and specifically, the human resources director and the city manager will take affirmative steps to insure that applicants are employed, and that employees are treated during employment without regard to age, sex, race color, religion, national origin, political affiliation, sexual orientation, or disability

as defined by the Americans with Disabilities Act. Such steps shall include, but not be limited to, the following: employment, classification, promotion, demotion, transfer, recruitment or recruitment advertising, layoff or termination, disciplinary action, rates of pay or other forms of compensation, and selection for training. Employees should fully understand that discrimination of any type is forbidden and will result in immediate disciplinary action, up to and including dismissal, and could result in civil suit and/or criminal prosecution. The human resources director shall conduct all internal investigations into discrimination complaints and report his/her written findings to the city manager.

(Ord. No. 1994-43, art. V, § 3, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-154. - Sexual and other unlawful harassment prohibited.

- (a) Sexual and other unlawful harassment involving any employee of the city in the employment relationship will not be tolerated. Harassment, retaliation, coercion, interference, or intimidation of an employee due to his or her age, race, color, religion, sex (including pregnancy, childbirth, or related medical condition), national origin, disability, or other legally protected status is strictly forbidden.
- (b) Employees, without any fear of reprisal, have the responsibility to bring any form of sexual or other unlawful harassment to the attention of their immediate supervisor or division head so that a prompt investigation may be begun into the circumstances of the incident and the alleged conduct. If an employee does not feel comfortable reporting the incident to their immediate supervisor or division head, he/she should contact their department head or the human resources director, who will investigate the matter thoroughly.
- (c) Appropriate disciplinary action, up to and including termination of employment, will be taken against any employee engaging in sexual or other unlawful harassment. In addition to disciplinary action which the city will impose, violations of this section may result in civil suits and criminal violations. (Refer to sexual and other unlawful harassment policy.)

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-154 to read as set out herein. Former § 54-154 pertained to harassment prohibited and was derived from Ord. No. 1994-43, art. V, § 4, adopted July 26, 1994 and Ord. No. 1997-42, § 2, adopted August 26, 1997.

Sec. 54-155. - Employment—Appointments.

- (a) The policy of the city is to employ personnel according to merit and fitness. To that end, the city shall use all available means to attract qualified candidates for employment and to make such investigations and examinations as are deemed appropriate to assess fairly the aptitude, education and experience, knowledge and skills, character, physical fitness, and other qualifications required for positions in the service of the city. All tests and examinations must receive the prior approval of the human resources director and must be in accordance with state and federal law. The human resources director will carefully evaluate the effect of all tests and examinations in order to insure that no particular classes or groups of employees experience an adverse impact.
- (b) The policy of the city is to create career opportunities for its employees whenever possible. Therefore, normally, when a current employee applying for a vacant position possesses the most suitable qualifications, that employee should be promoted to the position. However, if by promoting a current employee, the city would create or continue substantial imbalance in the ethnic make-up for a particular grouping, the city should carefully consider all applicants, so that it may, where reasonable,

for the purpose of this section to ensure that the city strives and maintains a work force representative of the community's sex, race and age makeup.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-155 to read as set out herein. Former § 54-155 pertained to appointments and was derived from Ord. No. 1994-43, art. V, § 5, adopted July 26, 1994 and Ord. No. 1997-42, § 2, adopted August 26, 1997.

Sec. 54-156. - Qualification standards.

Employees shall meet the employment standards established by the position classification plan and such other reasonable minimum standards as may be established by law or the city manager, with advice and recommendations of the human resources director and the respective department head.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-156 to read as set out herein. Former § 54-156 pertained to qualifications of employees and was derived from Ord. No. 1994-43, art. V, § 6, adopted July 26, 1994 and Ord. No. 1997-42, § 2, adopted August 26, 1997.

Sec. 54-157. - Employee residency requirements.

- (a) *Purpose.* The purpose of establishing residency requirements for the city manager, assistant city manager and all department heads as set forth in this section is to:
 - (1) Enhance the quality of employee performance by greater personal knowledge of the city's conditions that results from living and participating as a member in the city's community;
 - (2) Ensure the prompt response of experienced department heads in emergency situations; and
 - (3) Enhance the general economic benefits flowing from local expenditure of department heads' salaries.
- (b) *City manager and assistant city manager residency requirement.* Within six months of his or her appointment, the city manager and assistant city manager shall be required to reside within the city limits, and shall remain a resident of the city during his or her tenure.
- (c) *Department head residency requirement.* All department heads are encouraged but shall not be required to reside within the city. All department heads shall reside within eight miles (measured on a straight line basis) of city hall. If a department head does not reside within the prescribed area at the time of employment, such department head shall have six months from the date of employment to comply with the residency requirement established in this section.
- (d) *Definition.* A person resides, becomes a resident of, or establishes residency within the prescribed area when the person:
 - (1) Has left his or her prior home with no intent to return to the prior home as a place of regular habitation;
 - (2) Has rented, leased, or purchased a dwelling unit (as defined in the Land Use Ordinance) within the prescribed area;
 - (3) Has established such dwelling unit as his or her regular place of habitation and the place to which, whenever he or she is absent, he or she has the intention of returning; and

- (4) Actually resides within the dwelling unit on a regular basis at least five evenings during normal weeks.

Continued employment is conditioned upon compliance with the residency requirements established in this section. This section is not intended to limit or restrict the area of recruitment for city personnel, it being the desire of the board of aldermen that the best qualified personnel available should be sought for positions in city employment.

(Ord. No. 1994-43, art. V, § 7, 7-26-94; Ord. No. 2011-124, § 1, 8-9-11; Ord. No. 2012-178, § 1, 11-27-12; [Ord. No. 15-031, § 1, 7-14-15](#))

Sec. 54-158. - Employment status.

Employment status with the city falls into one of two categories:

- (1) Full-time employment is the employment, whether regular or temporary, in which an employee works the number of hours designated by the board of aldermen as full-time. For purposes of this policy, full-time employment shall consist of an average workweek of at least 40 hours (42 for sworn police personnel and 56 for fire personnel).
- (2) Part-time employment is employment, either regular or temporary, in which an employee works an average less than the number of hours designated as full-time. For purposes of this policy, part-time employment shall consist of an average workweek of less than 40 hours per week.

(Ord. No. 1994-43, art. V, § 8, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-159. - Employment types.

There are three types of employment with the city, as follows:

- (1) *Regular*. Employees in these positions shall serve in a budgeted position for an indefinite period.
- (2) *Temporary*. Employees in these positions shall serve for a definite period to fill a position which will cease to exist at the end of a definite term upon the happening of a predictable event, including approved grant funded positions for the duration of the grant period.
- (3) *Seasonal*. Persons employed by the city for special or seasonal work assignments.

(Ord. No. 1994-43, art. V, § 9, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-160. - Probationary period and evaluation.

- (a) Regular and temporary employees who are employed full-time or part-time will serve a six-month probationary period, except fire and sworn police personnel. Fire and sworn police personnel, shall serve a 12-month probationary period. If, during the initial months of a person's employment, that person serves first as a temporary city employee and then as a regular employee or vice versa, then the probationary period shall last until the employee has served the equivalent of six months or 12 months, if applicable as a regular employee.
- (b) An employee who has gained regular status and whose performance and/or conduct has deteriorated to an unacceptable level, may be placed on probation not to exceed six months in order to allow the employee to adjust his or her performance and/or conduct in lieu of more drastic disciplinary measures being taken.
- (c) While serving in a probationary status, employees will accumulate sick leave, annual leave and receive holiday pay, but not be permitted to take annual leave, unless denial of such leave, as

determined by the human resources director, will create an unusual hardship for the first six months of probationary period. An employee may be dismissed at any time during the probationary period with or without cause.

- (d) The department head may recommend to the city manager that the probationary period be extended. The manager may extend the probationary period of any employee by up to 50 percent of the initial period, providing that no employee may remain on probation for more than 18 months. The employee shall be notified, in writing, of an extension decision before the expiration of the initial probationary period.
- (e) During the probationary period, the supervisor of the employee serving in a probationary period shall closely monitor the progress of the affected employee and shall frequently coach and discuss performance with the employee. Before the end of the probationary period, the respective department head shall make a written recommendation to the human resources director whether the probationary period should be extended or whether the employee should be retained in his/her present position, transferred, demoted or dismissed. An employee will remain on probationary status until his/her department head submits a recommendation to change the employee's status from probationary to regular.
- (f) At the end of the probationary period, if the employee is retained in the position he or she filled while serving in a probationary period, then the employee may be eligible for a one-step salary adjustment if recommended by the department head in terms of employment.
- (g) An employee is generally expected to have completed his/her probationary period in his/her current position before being considered for promotion, demotion or transfer.

(Ord. No. 1994-43, art. V, § 10, 7-26-94; Ord. No. 1997-42, §§ 2, 3, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-161. - Adjustment period and evaluation.

Employees who are promoted, demoted or transferred are required to serve a six-month adjustment period in order that their performance in the new position may be evaluated. Adjustment periods are very similar to probationary periods, and supervisors are expected to give continuous feedback, coaching, counseling and guidance to the affected employee.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-161 to read as set out herein. Former § 54-161 pertained to adjustment period and evaluation for promoted, demoted or reclassified employees and was derived from Ord. No. 1994-43, art. V, § 11, adopted July 26, 1994.

Sec. 54-162. - Employment of relatives.

- (a) Members of an immediate family shall not be employed at the same time if such employment would result in an employee directly or indirectly supervising a member of the immediate family or an employee occupying a position which has influence over the family member's employment, promotion, salary administration, or other related management or personal considerations.
- (b) This section shall not be retroactive, and no action will be taken concerning those members of the same immediate family employed in conflict with subsection (a) prior to the adoption of this policy. However, should immediate family members be employed as outlined above and should one member of the immediate family separate his/her employment from the city, then that family member will be prevented from returning to work with the city if it would conflict with subsection (a).

(Ord. No. 1994-43, art. V, § 12, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Secs. 54-163—54-190. - Reserved.

ARTICLE VI. - GENERAL CONDITIONS OF EMPLOYMENT

Sec. 54-191. - Work period.

- (a) Persons employed full-time shall work a minimum of 80 hours bi-weekly. The work period for police and fire personnel working on a rotating shift basis will be set by the respective department head with the approval of the human resources director and the city manager.
- (b) Persons employed part-time shall work those numbers of hours designated by the respective department head; however, such part-time employment shall consist of an average work week of less than 40 hours per week.
- (c) Department heads shall work the number of hours necessary to assure the efficient and satisfactory performance of their departments; however, that number of hours shall not average less than 40 hours per week. Due to the nature of department head duties, they shall not be bound by the normal starting and ending times per day. However, working hours should be structured to ensure that they are available on a continuous basis to both employees and the general public during the major portion of normal business hours.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-191 in its entirety. Former § 54-191 pertained to authority to prescribe additional policies and regulations and was derived from Ord. No. 1994-43, art. VI, § 14, adopted July 26, 1994 and Ord. No. 1997-42, § 2, adopted August 26, 1997.

Sec. 54-192. - Employee/employer—Responsibilities.

- (a) As an employee you may expect from the city fair treatment at all times, adequate pay and benefits equal to comparable positions in business, industry and nearby governments of similar size, clean, healthy and safe working conditions, modern equipment and materials, security in employment, informed supervisors, and opportunities for advancement.
- (b) Employees have the responsibility to be fair and courteous in meeting the public and in working with fellow employees, industrious, neat in work and personal appearance, economical in the use of supplies and equipment, cooperative with the public and fellow employees, and to adhere to all city policies and procedures; and
 - (1) Report to work on time and remain on the job until the end of the work period established for his/her department;
 - (2) Perform duties to the best of his/her ability and contribute a full day's work for a full day's pay;
 - (3) Work well with other employees and accept additional assignments during peak workloads and emergency situations;
 - (4) Request prior approval before taking leave of absence and before leaving the work site;
 - (5) Refrain from engaging in activities which bring discredit to the city or have a disruptive influence on morale or work progress.

The above list is not intended to be all inclusive of expected behaviors and responsibilities.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-192 in its entirety. Former § 54-192 pertained to responsibilities of employer and employees and was derived from Ord. No. 1994-43, art. VI, § 2, adopted July 26, 1994.

Sec. 54-193. - Supervisory responsibilities.

Whereas the need to maintain team spirit, efficiency, discipline and safe working conditions are of prime importance to the harmonious operation of the city, persons employed in supervisory positions are in crucial management roles. Supervisors are responsible for, among other things:

- (1) Supporting and maintaining the harmonious relationship between supervisory and non-supervisory employees;
- (2) Lending their full support to the city's position regarding employee-employer relations. To this extent, supervisory personnel shall not be permitted to join, support or participate in activities of any employee organization whose purpose is the collective representation of employees in matters relating to employment; and
- (3) A department head shall carry out responsibilities assigned by the city manager, being guided by the city charter, city ordinance, and the city manager's directives. Department heads and their subordinate supervisors shall:
 - a. Deal with all employees in a fair and equitable manner and uphold the principles of equal employment opportunities;
 - b. Develop and motivate employees to reach their fullest potential through continued education and training;
 - c. Make ongoing objective evaluations of individual work performance and discuss these evaluations with each employee so as to bring about needed improvements;
 - d. Keep employees informed of their role in accomplishing the work of their unit and of conditions or changes affecting their work;
 - e. Make every effort to resolve employee problems and grievances and advise employees of their rights and privileges;
 - f. Make every effort to promote and maintain good public relations in conducting the public's business and as representatives of the city off the job.

The above list is not intended to be all inclusive of expected behaviors and responsibilities.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-193 in its entirety. Former § 54-193 pertained to responsibilities of supervisors and was derived from Ord. No. 1994-43, art. VI, § 3, adopted July 26, 1994.

Sec. 54-194. - Reserved.

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, repealed § 54-194 in its entirety. Former § 54-194 pertained to workweek and was derived from Ord. No. 1994-43, art. VI, § 1, adopted July 26, 1994.

Sec. 54-195. - Acceptance of gifts and favors, contracts, city employment of board members.

- (a) No official or employee of the city shall accept any gift of value, whether in the form of service, loan, thing, or promise from any person who, to the employee's knowledge, is interested directly or indirectly in any manner whatsoever in business dealings with the city.
- (b) No official or employee shall accept any gift, favor or thing of value that may tend to influence that employee in the discharge of duties nor may any official or employee grant in the discharge of duties any improper favor, service or thing of value.
- (c) No official or employee may use his/her position with the city to secure a contract for the purchase of goods or services from any firm or organization in which he/she has a direct financial interest.
- (d) No official may be employed by the city in any capacity. If an employee of the city files for elected office, he/she must take administrative leave. If an employee is elected or appointed to an official position with the city, he/she must resign from his/her position with the city prior to taking the oath of office.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-195 in its entirety. Former § 54-195 pertained to acceptance of gifts and favors; conflict of interest; employees elected to government office and was derived from Ord. No. 1994-43, art. VI, § 4, adopted July 26, 1994.

Sec. 54-196. - Outside employment.

The city has no intention of regulating what employees do during their own time away from the job as long as such activities do not represent a conflict of interest or reflect discredit on the city. Employees should be aware that city employment shall have precedence over the other occupational interests of employees and that any outside employment which is in conflict with the city's public purpose or which interferes with job performance with the city may be grounds for disciplinary action. All outside employment must be reported promptly and must receive prior approval by the respective department head. Outside employment must be reported no less than annually. (Refer to outside employment policy.)

(Ord. No. 1994-43, art. VI, § 5, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-197. - Political activity restricted.

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 and in accordance with the Constitution and laws of the United States of America. However, no employee may:

- (1) Engage in any political or partisan activity while on duty;
- (2) Use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;
- (3) Be required as a duty of employment or as a condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- (4) Coerce or compel contributions for political or partisan purposes by another employee of the city; or
- (5) Use any supplies or equipment of the city for political or partisan purposes.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-197 in its entirety. Former § 54-197 pertained to political activity and was derived from Ord. No. 1994-43, art. VI, § 6, adopted July 26, 1994.

Sec. 54-198. - Solicitation.

Except for programs approved by the city, no employee shall solicit pledges or contributions or promote sales for any cause either during working hours or on city property. Likewise, the solicitation by outside interests on city property is prohibited. Such examples may include the selling or ordering of cosmetic supplies, food, etc.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-198 in its entirety. Former § 54-198 pertained to solicitation on city property and was derived from Ord. No. 1994-43, art. VI, § 7, adopted July 26, 1994.

Sec. 54-199. - Use of city vehicles and property.

- (a) Use of city vehicles shall be governed by procedures established in the vehicle use policy: (Refer to vehicle use policy for additional guidelines.)
- (b) Employees who use their personal vehicles for city business may be reimbursed at the applicable rate per mile.
- (c) Employees shall not use any city equipment, materials, supplies or vehicles for personal use nor shall such equipment, materials, supplies or vehicles be removed from city property except in the conduct of official business.
- (d) City telephones are for official business. Long distance calls shall be accounted for as official business only, and employees may not make unreasonable use of city telephones for local calls.
- (e) Employees who violate this section shall be subject to disciplinary action.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-199 in its entirety. Former § 54-199 pertained to use of city vehicles and property; use of personal vehicle for city business and was derived from Ord. No. 1994-43, art. VI, § 8, adopted July 26, 1994.

Sec. 54-200. - Employees conduct.

- (a) Each employee of the city shall conduct himself or herself in such a manner that the city would not suffer embarrassment.
- (b) An employee of the city shall conduct himself/herself both on and off the job, so as to reflect credit on the city and on fellow employees.
- (c) The following shall be considered some examples but are not all inclusive of unacceptable conduct by an employee:
 - (1) Reporting for work while under the influence of alcohol or a controlled substance;

- (2) Use or consumption of alcohol, illegal drugs or abuse of medication while on the job;
- (3) Conduct on and off the job which may bring discredit to the city;
- (4) Gross inefficiency, insubordination or refusal to perform assigned duties;
- (5) Dishonesty, theft, misrepresentation, falsification of records and reports;
- (6) Engaging in a scheme with the expectation or hope of personal profit in connection with performance of an official duty or by use of city property;
- (7) Disloyalty to the city;
- (8) Conviction of a felony;
- (9) Disregard of established work rules, safety rules, policies and regulations;
- (10) Misuse of time sheets, city property or city funds;
- (11) Repeated failure to satisfy legitimate claims by and debts owed to creditors;
- (12) Willful insubordination;
- (13) Gambling.

A city employee who violates one or more of the above specific examples of misconduct shall receive disciplinary action up to and including dismissal.

- (d) Department heads and supervisors shall counsel employees about their misconduct. A letter shall be sent to an offending employee describing the misconduct and implementing the disciplinary action to be taken. A regular employee may file an appeal in accordance with the city's grievance procedure upon the imposition of disciplinary action.
- (e) Department heads may issue supplementary written policies, rules and regulations relating to the performance of employees within their respective departments, upon the approval of the human resources director, as long as they do not conflict with the personnel ordinance.

(Ord. No. 1994-43, art. VI, § 9, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-201. - Violence in the workplace prohibited.

- (a) The safety and security of all employees is of primary importance to the city. Threats, threatening and abusive behavior, or acts of violence against employees, visitors, customers, or other individuals by anyone on city property will not be tolerated. It is the obligation of each employee to contribute to the safety of the work environment by refraining from activities and/or behaviors that may provoke violence.
- (b) The following shall be considered some examples but are not all inclusive of behaviors which will not be tolerated by the city while an employee is in the performance of his/her duties:
 - (1) The act or threat of bodily harm to another employee or member of the public;
 - (2) Fighting, hitting, shoving, pushing or grabbing;
 - (3) Subtle or implied threats to fellow employees, visitors or customers;
 - (4) Possession of a weapon(s) while on duty (police officers should refer to SOP);
 - (5) Using language which would be regarded as likely to provoke violence by another;
 - (6) Violent outbursts of rage;
 - (7) Deliberate damage to city or private property or to the property of another employee while on duty;

- (c) Employees, without fear of reprisal, are responsible for promptly notifying their immediate supervisor, division head, department head or the human resources director of any threats or incidents they have received or witnessed. If the immediate supervisor or division head is notified of the threat or incident, he/she is responsible for promptly notifying the department head or human resources director. Even without a specific threat, all employees should report any behavior they have witnessed that they regard as potentially threatening or violent or which could endanger the health or safety of an employee when the behavior has been carried out on city property or is connected to city employment or city business. If an employee feels that his or anyone else's life is in imminent danger, he/she should immediately call 9-1-1 and request police assistance.
- (d) An act of violence against any employee, visitor, customer, or other individual on city property will be investigated thoroughly by the department head and human resources director. Following the investigation, an immediate and appropriate response will be initiated. Appropriate disciplinary action, up to and including termination of employment, will be taken against any employee engaging in violence in the workplace. In addition to disciplinary action which the city will impose, violations of this section may result in criminal prosecution.
- (e) The city understands the sensitivity of the information requested and will treat any report of violence with discretion. Confidentiality cannot be absolutely guaranteed if protection of employees requires that the information be reported. However, the anonymity of the reporting employee will be maintained, when at all possible.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, created a new § 54-201 and renumbered §§ 54-201—54-204 as §§ 54-202—54-205.

Sec. 54-202. - Alcohol and controlled substances—Abuse.

- (a) The consumption and use of alcohol or illegal substances or the abuse of controlled substances by employees and prospective employees of the city poses significant risks and jeopardizes the safety of employees and the general public. Employees at any level in the city organization who consume or have drugs or alcohol in their systems during working hours impair their ability to perform their duties at full, efficient capacity. Impaired judgments as a result of such consumption seriously increase the risk of accident or injury, faulty decision-making and efficient job performance.
- (b) Candidates for employment with the city in any position who are found to have positive drug or alcohol screening test results, absent a valid legal or medical explanation, shall be disqualified for employment.
- (c) The presence of drugs or alcohol in the workplace, consuming, being under the influence of prohibited substances by employees during working hours is prohibited and shall constitute grounds for administrative or disciplinary action up to and including dismissal.

(Refer to the substance abuse policy for complete regulations.)

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Former § 54-202 pertained to possession or consumption of alcohol or drugs and was derived from Ord. No. 1994-43, art. VI, § 10, adopted July 26, 1994. See note at § 54-201.

Sec. 54-203. - Screening and testing.

- (a) All persons recommended for employment with the city shall be required to undergo and pass a pre-employment physical and drug screening test before being hired. A conditional job offer will be made subject to confirmation of the pre-employment physical and drug screens. Failure to submit to a pre-employment physical and drug screen will exclude an applicant from being hired. A candidate for employment receiving a confirmed positive test result shall not be considered for employment with the city for a period of one-year from the date of notice of the test results. Employment decisions based on drug screening test results are irrevocable and appeals shall not be considered.
- (b) Any employee of the city may be required to undergo alcohol, or drug testing procedures if his conduct on the job or job performance suggests the influence of drugs or alcohol.
- (c) Employees in designated safety-sensitive positions will be subject to random, unannounced drug and alcohol screening. The human resources director will maintain a list of jobs approved for random testing. The rate of random selection for drug and alcohol screening will be a percentage of the annual average employee base.
- (d) Current employees must pass a drug and alcohol screening prior to being promoted, demoted, or transferred from a non safety-sensitive position into a designated safety-sensitive position that requires testing.
- (e) Refusal to submit to substance abuse testing, when properly authorized and directed by supervisory personnel upon the establishment of reasonable suspicion, shall be grounds for disciplinary action up to and including dismissal.
- (f) Employees with positive substance test results shall be subject to disciplinary or administrative actions including but not limited to suspension, referral to substance treatment and rehabilitation programs or dismissal. Refusal to enter and complete prescribed treatment and rehabilitation programs shall constitute a voluntary resignation from city employment by the employees. The city shall have the right to require unannounced drug screening tests during the one-year period following completion of the employee's treatment and rehabilitation program. Refusal to undergo testing or positive substance test results shall be grounds for disciplinary action up to and including dismissal.
- (g) The city manager shall be responsible for establishing and administering policies and procedures necessary to enforce this section.
- (h) This section and all related administrative policies and procedures established by the city manager shall not create any legal right to city employment or any procedural rights pertaining thereto which do not otherwise exist. Additionally, the adoption of this section, related administrative policies and compliance therewith by any employee shall not constitute or create any contractual relationship between the employee and the city other than one of employment at will.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Former § 54-203 pertained to alcohol and drug testing and was derived from Ord. No. 1994-43, art. VI, § 11, adopted July 26, 1994 and Ord. No. 1997-42, § 4, adopted August 26, 1997. See note at § 54-201.

Sec. 54-204. - Medical and psychological examinations.

- (a) Medical examinations will be required prior to employment. Psychological examinations will be required for certain positions prior to employment.
- (b) Also, during the course of employment, circumstances may require an employee to have a medical and/or psychological examination completed. Any required examination will be at the expense of the city, except, those employees who may abuse the sick leave provisions of this article may be required to submit medical certification at the employee's expense.

(Ord. No. 1994-43, art. VI, § 12, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-201.

Sec. 54-205. - Performance evaluations.

- (a) Performance evaluations shall be conducted no less often than once annually for each employee.
- (b) The job performance of each city employee shall be evaluated at least once every year by the employee's immediate supervisor(s). The employee and the supervisor shall review and discuss the evaluation and the evaluation shall become a part of the employee's permanent personnel record.
- (c) A formal evaluation shall be completed on each employee at the completion of his/her probationary period and annually thereafter during the employee's employment with the city.
- (d) A formal evaluation shall be completed on each employee at the completion of his/her six-month adjustment period, following a demotion, promotion or transfer.
- (e) Performance evaluations shall be used to:
 - (1) Enable the employee to understand how his/her work performance is viewed by the supervisor and to understand what is expected;
 - (2) Provide an opportunity for the employee to discuss with his/her superior problems which affect his/her work performance;
 - (3) Enable the city manager to pinpoint employee and departmental strengths and weaknesses in the city organization.
- (f) In addition to these factors, the employee's performance evaluation shall be used as a factor, in determining whether an employee is:
 - (1) Suited for regular employment at the end of a probationary period;
 - (2) Eligible for a promotion;
 - (3) Recommended for a pay increase; or
 - (4) Demoted or discharged for unacceptable performance.

(Ord. No. 1994-43, art. VI, § 13, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-201.

Sec. 54-206. - Issuance of supplementary policies.

- (a) Department heads may issue rules, regulations and policies relating to the operation of their respective departments, so long as such rules, regulations or policies do not conflict with or contradict this ordinance, state, or federal law or policies put in effect by the city manager. However, department heads shall consult with and obtain the approval of the human resources director before issuing such rules, regulations or policies. Such rules, regulations and policies may be promulgated in the form of written memoranda or manuals.
- (b) The city manager may issue administrative policies, rules and regulations which are consistent with this ordinance as he/she deems necessary.
- (c) Violation of any rules, regulations or policies may constitute "cause" for disciplinary action. However, this section is not intended necessarily to restrict the term "cause" only to violations of rules, regulations or policies promulgated pursuant to this section.

(Ord. No. 2012-178, § 1, 11-27-12)

Secs. 54-207—54-230. - Reserved.

ARTICLE VII. - EMPLOYEE BENEFITS AND SERVICES

Sec. 54-231. - Retirement.

- (a) Each person employed whose duties require at least 1,000 work hours per calendar year, except sworn police personnel, shall be required to join the state local government employee's retirement system. Sworn police personnel shall be required to join either the above system or the state law enforcement officer's benefit and retirement fund.
- (b) A new eligible employee shall join the city retirement plan six months after the date of initial employment with the city, except those persons who, within 30 days prior to their initial employment with the city were members of the following listed retirement systems must join a city retirement plan immediately upon their employment with the city:
 - (1) Teacher's and state employee's retirement system of North Carolina;
 - (2) North Carolina local governmental employee's retirement system;
 - (3) Law enforcement officers benefit and retirement system of North Carolina;
 - (4) Uniform judicial retirement system of North Carolina;
 - (5) Uniform solicitorial retirement system of North Carolina;
 - (6) Uniform clerk of superior court retirement system.
- (c) Employees shall be allowed to repurchase previously withdrawn retirement credits if they contribute the appropriate employee share in accordance with the state retirement system guidelines.

(Ord. No. 1994-43, art. VII, § 1, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-232. - Group health and hospitalization insurance.

- (a) The city will provide group health and hospitalization insurance as the fiscal budget allows, including major medical coverage, and will pay the total cost for the individual employee's premium. Employees will be required to pay the additional cost as determined by the city to cover members of their family, if they wish such coverage.
- (b) Only those employees who work on a regular, full-time basis are eligible for health and hospitalization coverage. However, employees who are regular part-time may be covered under the city's policy if they wish, provided such employees pay the entire costs of such coverage.
- (c) Employees who have worked for 30 years or more and 15 of those years with the city may retire under the classification of "maximum retiree." If an employee exercises this option, the city will permit the employee to remain with the city's group health program indefinitely and will pay the individual's premium for such retiree's insurance coverage.

The retiree may remain with the city's group health program until he/she reaches age 65, or is enrolled in Medicare (part A and B). The city will purchase a Medicare supplement policy for the retiree at no cost to the individual. The retiree must notify the human resources department when they become eligible for Medicare coverage. Retirees will retain their dental coverage. A separate ID card will be issued for dental coverage only.

- (d) Dependent(s) are eligible to remain on the city health plan until they reach age 65, or are eligible for Medicare providing the individual pays the premium for such coverage. Dependents may retain their dental coverage providing the individual pays the premium for such coverage.
- (e) Employees with 27 years of service with the city and prior military service may use up to three years of such military service as credit with the city to qualify for eligibility for the city's group health program for retirees. Employees with at least 30 years of creditable service may retire under the classification of "maximum retiree."
- (f) Members of the governing board who have served a total exceeding 15 years in office may retire under the classification of "maximum retiree." If a governing board member exercises this option, the city will permit the employee to participate in the city's group health program indefinitely if requested in writing by the member within the first three months after leaving office.

The member may remain with the city's group health program until he/she reaches age 65, or is enrolled in Medicare (part A and B). The city will purchase a Medicare supplement policy for the member at no cost to the individual. The member must notify the human resources department when they become eligible for Medicare coverage.

- (g) Those employees retiring with 25 to 29 years of qualified service, and ten of those years with the city, may elect to continue coverage for an indefinite period with the city's group health program providing the individual pays the premium for such coverage.

The retiree may remain with the city's group health program until he/she reaches age 65, or is enrolled in Medicare (part A and B). Dependent(s) are eligible to remain on the city health plan until they reach age 65, or are eligible for Medicare providing the individual pays the premium for such coverage.

- (h) Employees retiring with 20 years of qualified service with the city may elect to continue coverage under the city's group health program for up to 36 months or until he/she reaches age 65, or is enrolled in Medicare (part A and B) providing the individual pays the cost for such retiree coverage.
- (i) Dependant(s) are eligible to remain on the city health plan for up to 36 months or until he/she reaches age 65, or is enrolled in Medicare (part A and B) providing the individual pays the cost for such retiree coverage.

(Ord. No. 1994-43, art. VII, § 2, 7-26-94; Ord. No. 1997-42, § 5, 8-26-97; Ord. No. 2003-28, § 1, 6-7-03; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-233. - Group life insurance.

The City will provide group life insurance benefits to all regular employees employed full-time and will pay the total cost of both individual and dependent life coverage. This coverage will begin on the 1st day of the month on/or following the 60th work day. In addition to the group life insurance coverage in effect at any particular time, the city will participate in the death benefit program provided through the state retirement system in addition to whatever group life insurance coverage that is in effect at the time. City employees who are members of the local government retirement system and meet their qualifications will receive a death benefit.

(Ord. No. 1994-43, art. VII, § 3, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-234. - Unemployment insurance.

Unemployment insurance is a federally mandated, state operated, city supported insurance program which is provided for city employees for this protection against severe financial hardships which may result from involuntary separation of employment. Employees do not pay or share in any of the costs for unemployment insurance.

(Ord. No. 1994-43, art. VII, § 4, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-235. - Social Security.

The city, to the extent of its lawful authority and power, will match Social Security benefits for its eligible employees and eligible groups and classes of employees. The amount of contributions to which both the city and its employees are subject to is a matter set by federal law as well as the benefits derived from participation in the Social Security system.

(Ord. No. 1994-43, art. VII, § 5, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-236. - Workers' compensation.

(a) City employees shall be protected by the state workers' compensation act (herein after referred to in this section as the Act) in the event of a job-related injury or illness covered by the Act. Payment shall be made for medical expenses and for time lost from work in accordance with provisions and schedules of the Act.

- (1) Employees, in order to preserve their rights under the law, must report the injury or accident and receive medical treatment as provided for by the city's procedures;
- (2) The supervisor will complete the necessary workers' compensation injury report as required by the city procedures; and
- (3) Should the employee be out of work due to the injury or illness, the employee should select, in writing, option A or option B and, if necessary, option 1, 2 or 3:
- (4) For the first seven days of absence from work due to the injury or illness, employees shall select one of the following options:

Option A: Employees may use accumulated sick leave then annual leave. Employees selecting this option will be required to exhaust all accumulated sick leave before using annual leave.

Option B: Employee may go on leave without pay status. Should the employee, selecting this option, be out of work for more than 21 calendar days for the injury or illness, then the employee will receive a weekly benefit payment for the first seven days of work missed as due under the Act.

- (5) One of the above listed options must be selected, in writing, within three calendar days from the date of the injury or illness. Once an option has been selected, it cannot be changed during the covered period. Failure to select an option will result in option A being invoked by the city. The city will not allow employees to either "buy back" sick or annual leave credits once they have been used under one of the options, nor will the city advance sick or annual leave credits to any employee.
- (6) Beginning on calendar day eight following the illness or injury, employees who have not returned to work shall select one of the following options:

Option 1: Employees may go immediately on a leave without pay status and receive all benefits due under the Act. Under this option, the employee reserves all accumulated sick and annual leave for personal use. Employees selecting this option will not receive a city payroll check during the covered period of disability. Employees will be eligible to receive weekly benefits (which is 66 2/3 percent of weekly salary to a maximum rate specified by law) beginning on the eighth calendar day of disability. Should the employee be out of work for more than 21 calendar days for the injury, then the employee will receive a weekly benefit payment for the first seven days of work missed, retroactive, provided that the employee did not use sick or annual leave during this seven-day period. Also, under this

option, employees are eligible to receive all medical benefits (payment of related medical expenses) during the injury period.

Option 2: Employees may take their accumulated sick leave during the injury period; then after exhaustion of sick leave, they may go on leave without pay. Under this option, employees will use accumulated sick leave during the injury period and will receive a payroll check (for the sick leave) from the city until the employee either returns to work or exhausts his/her sick leave. The employee will be eligible to receive medical benefits (payment for medical expenses) during the injury period, but will not be eligible to receive workers' compensation payments while on sick leave. Should the employee exhaust his/her sick leave before he/she is able to return to work, then he/she will be eligible to go on leave without pay and receive weekly workers' compensation payments, as provided by law.

Option 3: Employees may select to take their accumulated sick leave then annual leave under this option. Employees selecting this option will be required to exhaust all accumulated sick leave before being allowed to take accumulated annual leave, and then being allowed to go on a leave without pay status.

Under this option, employees will receive a payroll check (for the sick or annual leave) from the city until the employee either exhausts his/her accumulated leave or returns to work. The employee will be eligible to receive medical benefits (payment for related medical expenses) during the injury period but will not be eligible to receive workers' compensation benefits while there is a leave balance remaining. Should the employee exhaust his/her sick and annual leave before he/she is able to return to work, then he/she will be eligible to go on leave without pay and receive workers' compensation payments, as provided by law.

- (7) One of the above listed options must be selected, in writing, within three calendar days from the date of injury. Once an option has been selected, it cannot be changed during the covered period. Failure to select an option will result in option 1 being invoked by the city. The city will not allow employees to either "buy back" sick or annual leave credits once they have been used under one of these options, nor will the city advance sick or annual leave credits to any employee.
- (b) Any period of leave for a workers' compensation disability that qualifies as a "serious health condition" under the Family and Medical Leave Act (FMLA), will run concurrently with FMLA leave.
- (c) The city's personnel policies shall continue to apply to an employee on worker's compensation leave in the same manner as they would to an employee who continues to work, or is absent while on some other form of leave.

(Ord. No. 1994-43, art. VII, § 6, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-237. - Light duty assignments.

- (a) An employee who is unable to perform their regular job functions as a result of an on-the-job-injury may be able to return to work on a light duty assignment until released by the treating physician to return to regular duty, without restrictions.
- (b) Every attempt shall be made to assign light duty to the employee that is within the physical limitation(s) prescribed by the treating physician.
- (c) The employee shall continue to receive his/her regular rate of pay while on light duty status.
- (d) Department heads shall approve all light duty assignments.

- (e) Illness or injury experienced away from the job by the employee does not qualify for light duty work assignments, unless such illness or injury is considered a disability under the Americans with Disabilities Act (ADA).

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, created a new § 54-237 and renumbered §§ 54-237—54-248 as §§ 54-238—54-249.

Sec. 54-238. - Supplemental insurance.

The city does not actively participate in the cost or benefits of any other group accident, health, and disability supplementary insurance. However, the city may make available properly authorized programs and payroll deductions to its employees upon the approval of the city manager and in accordance with this chapter.

(Ord. No. 1994-43, art. VII, § 7, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-237.

Sec. 54-239. - Longevity.

As a method of recognizing employee length of service, the city will award a two and one-half percent increase to its employees for various lengths of service beginning on the first full pay period following the anniversary date of the employee as follows:

Five years

Ten years

Fifteen years

Twenty years

Twenty-five years

Thirty years (and every five-year increment thereafter)

Years of service must be regular, full-time service; however, there may be a break in service. Two months of part-time employment shall be equivalent to one-month of full-time employment.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Former § 54-239 pertained to longevity pay increase and was derived from Ord. No. 1994-43, art. VII, § 8, adopted July 26, 1994. See note at § 54-237.

Sec. 54-240. - Service awards.

Each year the city will recognize individual employees for various lengths of service and outstanding or meritorious service with the city. In addition to a service certificate, the awards may include either a gift certificate, service pin or other item of value.

(Ord. No. 1994-43, art. VII, § 9, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-237.

Sec. 54-241. - Legal defense of employees.

- (a) Generally speaking, it is the policy of the city to provide legal defense for officials and employees in litigation arising out of acts or omissions allegedly committed while said officials are conducting the business of the city or, in the case of employees, when such act or omission arises out of and in the course and scope of his or her employment. Upon written request made by or in behalf of an official or employee, the city may provide for legal defense, in whole or in part, of any criminal action or civil proceeding brought against him or her either in his or her official or individual capacity, or both, brought because of an act done or an omission to act, as here in above set forth, subject to any rules and regulations adopted by the board of aldermen. The defense may be provided by the city through its own counsel, or by employing other counsel.
- (b) Nothing, however, contained herein shall be deemed to require the city to provide for the defense of any action or proceeding of any nature.

(Ord. No. 1994-43, art. VII, § 10, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-237.

Sec. 54-242. - Educational assistance.

The city encourages employees to apply for and take courses which will be directly supportive of their positions or which will prepare them for logical progression within the same general area of employment with the city. To complement this encouragement, the city provides the following for regular, full-time, non-probationary employees:

- (1) The course of study shall be pursued outside regular hours of employment. However, a leave of absence at full or part pay during regular working hours may be granted to an employee upon the recommendation of the department head and with the approval of the human resources director and the city manager, or his/her designee to permit an employee to take courses of study that will better equip or prepare the employee to perform his/her assigned duties. The city shall reimburse the employee in accordance with the educational assistance policy, provided the employee submits a receipt for course expenses and a notice of successful completion of the course(s) to the human resources department.
- (2) An employee may receive reimbursement for courses taken outside of working hours which will better equip the employee to perform his/her assigned duties, subject to the approval of the human resources director. In such cases, the employee shall receive reimbursement in accordance with the educational assistance policy upon the submission of proper receipts for course expenses and upon notice of successful completion of the course.
- (3) Education leave for several courses at once either at part pay or without pay for a period of not to exceed 12 calendar months may be granted to an employee on the approval and recommendation of the city manager and with the approval of the board of aldermen. An employee granted such extended educational leave shall agree to return to the service of the city upon completion of the course work and remain in the employ of the city for a period equal to twice the educational leave extended to him or her. Should the employee fail to comply with this service requirement, he or she shall reimburse the city for all compensation and expenses received while on educational leave, which said sum shall be due to the city immediately upon termination of his or her employment.

(Refer to educational assistance program policy for complete guidelines.)

(Ord. No. 1994-43, art. VII, § 11, 7-26-94; Ord. No. 1997-42, §§ 1, 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-237.

Sec. 54-243. - Training expense reimbursement.

Employees participating in training courses approved, or required by the city will receive either an advancement in full or reimbursement in full for all prior approved expenses upon completion of the training courses.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Former § 54-243 pertained to payment of training expenses and was derived from Ord. No. 1994-43, art. VII, § 12, adopted July 26, 1994. See note at § 54-237.

Sec. 54-244. - Travel expenses.

Travel on official or city approved business must receive the prior approval of the respective department head. When an employee is away from the job on official business or is participating in authorized training courses, professional conference or meetings, he/she will be considered as officially at work and will be covered by workers' compensation insurance. The following travel guidelines are applicable to all employees:

- (1) *Mileage*. City employees traveling on official business are encouraged to use a city vehicle whenever practical. Travel reimbursement shall be as follows:
 - a. Travel by official city vehicle. The city pays costs of operation and maintenance.
 - b. Travel by personal vehicle. The city pays a uniform rate per mile to cover all costs incidental to costs and ownership.
 - c. Travel by public conveyance/mileage. The city shall reimburse to each participant based on the lowest cost form of travel.
- (2) *Living expenses*.
 - a. Living expenses other than meals will be authorized only for those trips lasting overnight or longer.
 - b. Employees will be expected to commence their return trip to the city as soon as practical after the conclusion of their business.
 - c. Personnel traveling away from the city on official business will be compensated for all living expenses, including meals at established per diem rates, hotel-motel accommodations, registration fees, tuition, taxis, buses, baggage handling, etc.
- (3) *Expense accounting*. Employees will be paid for actual expenses based upon supporting invoices for all expenditures except meals, tips, taxis, private vehicle travel allowance and bus fares.
 - a. Employees traveling on a reimbursable basis shall keep an actual record of their expenses and their time of departure to and from their destination and time of return to the city. No reimbursement will be paid without the appropriate invoices and travel claim signed by the employee.
 - b. Employees who are prepaid for expense must bring back appropriate support documentation for the amount of money advanced.

- c. Employees are required to file a travel expense report within ten working days after the date of return from attending a seminar, conference, school, etc. or other authorized travel. Employees who do not comply with this policy cannot be issued any additional travel advances until a final expense report is complete.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Former § 54-244 pertained to payment of travel expenses and was derived from Ord. No. 1994-43, art. VII, § 13, adopted July 26, 1994. See note at § 54-237.

Sec. 54-245. - Safety procedures and equipment.

- (a) *Policy.* The city is committed to providing a safe working environment for all employees. To this end, the city has and will continue to develop administrative safety procedures and policies which are designed to benefit the employee as well as the city.
- (b) *Purchase of safety equipment.* The city will provide at no cost to the appropriate employees, hard hats, safety shoes, lineman boots, gloves, safety tools, and other related safety equipment as may be approved by the city manager. However, in regards to safety-toe shoes, the city will purchase the first pair of safety-toe shoes for all new employees, using the vendor of the city's choice and shoe style designated by the city. Thereafter, each employee is responsible for proper maintenance and sanitation of his/her safety-shoes. If an employee's shoes become unserviceable, the shoes must be replaced at a partial expense to the employee. However, if the employee is unable to pay for the replacement of the shoes, the city will replace the shoes and payroll deduct the cost from the employee's salary. The city will allow up to four pay periods for the total cost to be paid in full. In addition, the employee must use the vendor of the city's choice.
- (c) *Responsibilities of department heads and supervisors.* Department heads and supervisors shall share the responsibility for:
 - (1) Promoting and enforcing occupational safety and health regulations on a continuous basis.
 - (2) Providing safe work procedures and environments;
 - (3) Implementing safety policies and programs;
 - (4) Informing and training employees in safe work habits;
 - (5) Detecting and correcting unsafe practices and conditions;
 - (6) Investigating accidents and preparing accident reports;
 - (7) Encouraging employees to report unsafe conditions and to submit practical safety suggestions;
and
 - (8) Promptly counseling or disciplining employees who violate safe work practices and procedures.
- (d) *Responsibilities of employees.* All employees shall be responsible for personal safety. In addition, city employees shall be responsible for:
 - (1) Developing and maintaining safe work habits;
 - (2) Promptly reporting all accidents and injuries, regardless of severity;
 - (3) Pointing out dangerous practices, working conditions and defective equipment;
 - (4) Assisting with investigations of accidents;
 - (5) Taking proper care of tools and safety equipment;
 - (6) Wearing proper clothing and safety equipment and avoiding loose sleeves, cuffs, rings, bracelets, and long hair around moving machinery;

- (7) Knowing the location and use of fire extinguishers, the location of fire exits and the best method for reporting a fire.

Employees violating established safety procedures are subject to disciplinary action up to and including dismissal. (Refer to safety program policy for additional guidelines.)

(Ord. No. 1994-43, art. VII, § 14, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-237.

Sec. 54-246. - Uniforms.

- (a) In order to provide standardization and consistency in appearance, the city will furnish complete uniforms to all field employees as determined by the human resources director in consultation with department heads. Employees furnished uniforms in the following grouping will wear the same standard uniform:

- (1) Police,
- (2) Fire,
- (3) All other field personnel.

Uniforms will be worn and cared for in accordance with the administrative uniform guidelines adopted by the city manager.

- (b) The city will replace the number of uniforms designated by the city manager, or board of aldermen as a result of worn out or damaged through normal usage.

(Refer to uniform policy.)

(Ord. No. 1994-43, art. VII, § 15, 7-26-94; Ord. No. 1997-42, §§ 2, 6, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-237.

Sec. 54-247. - Blood donations.

An employee requesting the opportunity to donate blood to the Red Cross Blood Bank during one of the scheduled bloodmobile visits is normally allowed up to four hours with pay to do so, inclusive of the time it takes to donate blood. The employee shall provide the supervisor with written verification of having donated to the Red Cross. Should complications arise so that additional time is required to donate blood, the supervisor should be notified immediately.

(Ord. No. 1994-43, art. VII, § 16, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-237.

Sec. 54-248. - Severance pay.

- (a) *City manager.* Should the board of aldermen dismiss the city manager for any reason other than fraud, corruption, or other serious abuse of duties or responsibilities, the city manager shall be entitled to receive one month's severance pay for every year employed in the capacity of city manager for the city, up to a maximum of three months' pay.

- (b) *Other employees.* Regular, full-time employees who are laid off due to reduction in force may receive severance pay if determined warranted by the city manager, up to a maximum of one month's pay.

(Ord. No. 1994-43, art. VII, § 17, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-237.

Sec. 54-249. - Special separation allowance.

The city shall provide a special separation allowance to qualified law enforcement officers, as defined by G.S. 128-21(11b) or 143-166.50(a)(3), who retire early or who leave service early, and meet all of the following qualifications:

- (1) The officer must have completed 30 years or more of creditable service or have attained 55 years of age and completed five or more years of creditable service.
- (2) The officer must not have attained the age 62.
- (3) The officer must have completed at least five years of continuous service as a law enforcement officer with the city immediately preceding service retirement.

Payment of the separation allowance to a retired officer will cease at the earlier of:

- a. The death of the officer.
- b. The last day of the month in which the officer attains 62 years of age.
- c. Re-employment in any capacity (FT, PT, temporary, permanent, contractual, etc.) by a local government or any agency participating in the state local government employees retirement system. (Re-employment with a state agency will not result in termination of benefits.)

(Ord. No. 2008-17, § 1, 3-25-08; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 54-237.

Secs. 54-250—54-270. - Reserved.

ARTICLE VIII. - LEAVE TYPES

Sec. 54-271. - Definitions.

For the purpose of this article, the phrase "working day" shall mean any day on which an employee of the city actually works or would work under ordinary circumstances. Designated holidays, Saturdays, and Sundays which may fall or occur during a vacation, sick or other leave period of an employee shall not be considered as a day's vacation, sick or other leave unless the employee is normally scheduled to work on that day.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, repealed and replaced § 54-271 in its entirety. Former § 54-271 pertained to "working day" defined and was derived from Ord. No. 1994-43, art. VIII, § 1, adopted July 26, 1994.

Sec. 54-272. - Holidays.

(a) The following and such other days as the board of aldermen may designate are holidays with pay:

- (1) New Year's Day
- (2) Martin Luther King, Jr.'s Day
- (3) Good Friday
- (4) Memorial Day
- (5) Independence Day
- (6) Labor Day
- (7) Veterans' Day
- (8) Thanksgiving Day
- (9) Friday after Thanksgiving
- (10) Christmas (two and one-half days)*

(b) The board of aldermen shall establish the holiday schedule each year for each of the city's designated holidays.

(c) When holidays other than Christmas Day fall on a Saturday or Sunday, Monday shall be observed as the holiday.

*When Christmas Day Falls on:	The City Observes as Holidays:
Sunday	Friday, Monday and Tuesday
Monday	Friday, Monday and Tuesday
Tuesday	Monday, Tuesday and Wednesday
Wednesday	Tuesday, Wednesday and Thursday
Thursday	Wednesday, Thursday and Friday
Friday	Wednesday, Thursday and Friday
Saturday	Friday, Monday and Tuesday

(d) An employee must work or be on paid leave the day before and the day after a holiday to be entitled to pay for that holiday.

(Ord. No. 1994-43, art. VIII, § 2, 7-26-94; Ord. No. 2010-81, § 1, 10-26-10; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-273. - Annual leave.

(a) Annual leave may be used for rest and relaxation, for medical and legal appointments, for absences due to adverse weather conditions, for time away from work for personal errands, for sickness in the immediate family, for additional funeral leave, or for any other reason the employee may deem necessary.

(b) Annual leave shall be earned by persons employed regular full-time in accordance with the following schedule. Persons employed regular part-time shall earn annual leave in a prorated amount, based upon the following schedule.

(1) Employees on a 40-hour work week and 42-hour work week schedule:

Years of Service	Earned Hours Per Pay Period	<i>Earned Hours Per Year</i>
0 but less than 5 years	3.69	95.94
5 but less than 10 years	4.15	107.90
10 but less than 15 years	4.62	120.12
15 but less than 20 years	6.00	156.00
20 but less than 25 years	6.46	167.96
25 but less than 30 years	6.92	179.62
30 years or over	7.38	191.88

(2) Employees on a 56-hour work schedule:

Years of Service	Earned Hours Per Pay Period	<i>Earned Hours Per Year</i>
0 but less than 5 years	9.97	259.22
5 but less than 10 years	10.80	280.80
10 but less than 15 years	11.63	302.38

15 but less than 20 years	14.33	372.58
20 but less than 25 years	15.23	395.98
25 but less than 30 years	16.13	419.38
30 years or over	17.03	442.78

- (c) Any accumulated leave balance over 240 hours (336 hours for fire shift personnel), as of the end of the pay period which includes December 31st, will be converted to sick leave. Employees will be allowed to carry an annual leave balance of more than 240/336 hours during the remainder of the year. Upon separation, employees will be paid for annual leave hours up to the maximum limit of 240/336, not for any hours in excess of the maximum limit.
- (d) Annual leave may be taken as earned by the employees or in any amount, subject to a one-quarter-hour minimum, as desired by the employee, subject to the approval of the supervisor.
- (e) Under no circumstances may annual leave not earned or accrued be advanced to employees without the approval of the board of aldermen. Employees begin earning annual leave on the first day of employment but are not permitted to take annual leave, unless denial of such leave, as determined by the human resources director, will create an unusual hardship for the first six months of probationary period.
- (f) Upon proper submission of a resignation, an employee shall be paid for all accumulated annual leave to the date of separation, not to exceed the maximum of 240 hours (336 for fire shift personnel). An employee who is involuntarily separated for disciplinary reasons will ordinarily be paid except that in cases of extreme provocation, the city manager may, at his discretion, withhold payment.
- (g) The estate of an employee who dies while working for the city shall be entitled to payment for all of the accumulated leave credited to the employee's account.

(Ord. No. 1994-43, art. VIII, § 3, 7-26-94; Ord. No. 1998-71, § 1, 10-13-98; Ord. No. 2004-72, 12-14-04; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-274. - Sick leave.

- (a) Sick leave is not a right which an employee may demand, but a privilege granted by the city for the benefit of an employee when sick.
- (b) Sick leave shall be granted to an employee absent from work for any of the following reasons: personal illness, or illness of a member of the immediate family, (please see "immediate family" in the definition section of this chapter) bodily injury, quarantine, required physical or dental examinations or treatment, exposure to a contagious disease when continuing to work might jeopardize the health of others and actual period of disability connected with childbearing.
- (c) Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the beginning of work day or shift or in a timely manner specified by the department head. Lack of such notification shall result in charge to leave without pay for the time missed in addition to appropriate disciplinary action. Sick leave must be taken in one-quarter-hour increments.

- (d) Persons employed regular full-time shall earn sick leave at the rate of 3.69 hours per pay period or 95.94 hours per completed year of service; provided that persons working a 56-hour work schedule shall earn sick leave at the rate of 5.54 hours per pay period or 144.04 hours per completed year. Persons employed regular part-time shall earn sick leave at a prorated amount. There is no limit on the amount of sick leave which may be accumulated.
- (e) The city may require, at the employee's expense, a physician's certificate concerning the nature of the illness and the employee's physical capacity to resume duties.
- (f) Sick leave may not be advanced to any employee.
- (g) At retirement and as a part of the retirement benefits, any employee who is a member of either the state local governmental retirement system or the state law enforcement officer's benefit and retirement fund will be allowed one-month of retirement credit for each 20 days of accumulated sick leave. However, sick hours cannot be counted in computing creditable service for the purpose of determining eligibility for vested deferred allowance or for disability retirement benefit.
- (h) Regular, full-time employees may receive retirement credit for all accumulated previous sick leave which they may have accumulated while they were working with any other local governmental or state agency within the state, subject to any rules or regulations adopted by the retirement system.
- (i) New employees who join the city from another municipality, county or state government, and who has accumulated sick leave with that municipality, may transfer unlimited sick leave, provided the accumulated time is properly documented by the previous employer.
- (j) An employee who is eligible for retirement and who remains absent from work for more than 90 consecutive work days because of sickness or injury shall file an application for disability, early or service retirement, or provide evidence to his/her department head that his/her disability is not permanent.

(Ord. No. 1994-43, art. VIII, § 4, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-275. - Family and medical leave.

- (a) The city shall provide 12 weeks of "protected leave" under the Family Medical Leave Act for all eligible employees. Whether such "protected leave" is paid or unpaid shall depend on the eligible employee's accrued sick and/or annual leave. Eligible employees are those who have been employed with the city for at least 12 months and who have worked at least 1,250 hours during the previous 12-month period.
- (b) Family and medical leave may be used for the following reasons:
 - (1) For the birth of a child and to care for the child after birth, provided the leave is taken within a 12-month period following birth.
 - (2) For the employee to care for a child placed with the employee for adoption, provided the leave is taken within a 12-month period following adoption.
 - (3) For the employee to care for the employee's child, spouse, or parent, where that child, spouse, or parent has a serious health condition; or
 - (4) Because the employee has a serious health condition that makes the employee unable to perform the functions of the employee's position.
- (c) Leave without pay beyond the 12-week period or for employees not covered under the family and medical leave policy will be administered under section 54-281.
- (d) Employees who exhaust the 12-week period of protected leave under the Family Medical Leave Act and are unable to return to work must request authorization to use sick leave for the absence from work beyond the protected period. Sick leave granted beyond the protected period under the Family

Medical Leave Act will not be covered under the provisions of the Family and Medical Leave Act. Sick leave shall be granted to an employee under section 54-274.

- (e) Employees on FMLA leave will continue to be eligible for benefits under the city's group insurance plans, and the premiums are paid as if he/she were working.

(Refer to Family and Medical Leave Act policy for additional information.)

(Ord. No. 1994-43, art. VIII, § 5, 7-26-94; Ord. No. 1997-42, § 8, 8-26-97; Ord. No. 2011-127, § 1, 10-11-11; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-276. - Parent involvement in schools leave.

- (a) In keeping with the general statutes of the state and in agreement that parental involvement is an essential part of a child's success and development through education the city will grant four hours per fiscal year to any employee who is a parent, guardian, or person standing in loco parentis of a school-aged child so that the employee may attend or otherwise be involved at that child's school. The following outlines the city policy on parental involvement leave:
 - (1) The leave should be at a mutually agreed upon time between the employee and his/her supervisor.
 - (2) The city requires that the employee make a written request for this leave at least 48 hours prior to the desired leave time if practicable and forward this request to his/her supervisor who will forward the request to the department head.
 - (3) The city may require that the employee who is utilizing the leave furnish written verification from the child's school that the employee attended or was involved at that school during the requested time of leave.
 - (4) Employees may use annual leave in order to be paid for the parental involvement leave requested or may choose to be unpaid for the time.
- (b) For the purposes of this policy "school" means any public school, private church school, church of religious charter, or non-public school described in G.S. parts 1 and 2 of article 39 of chapter 115C that regularly provides a course of grade school instruction, preschool, or child day care facility as defined in G.S. 110-86(3).
- (c) The city shall not discharge, demote, or otherwise take an adverse employment action against an employee who requests or takes leave under this policy.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-276 to read as set out herein. Former § 54-276 pertained to leave for parent involvement in schools and was derived from Ord. No. 1994-43, art. VIII, § 6, adopted July 26, 1994.

Sec. 54-277. - Funeral leave.

- (a) Funeral leave is provided as a separate benefit to assist those regular employees who suffer, the loss of, an immediate family member or who lose the association of a fellow active employee through death.
- (b) Funeral leave shall be granted the calendar day before the funeral, the day of the funeral, and the day following the funeral to all regular, full-time and part-time employees per occurrence for the death of the affected employee's immediate family. (Refer to immediate family definition in section 54-3.)

- (c) Additional leave needed for funeral purposes may be charged to annual leave, sick leave or leave without pay. Funeral leave must receive the approval of the respective department head.
- (d) Funeral leave shall be granted to regular, full-time employees at a maximum rate of two hours upon the death of an active fellow employee (to attend funeral, visit family, etc.)
- (e) Funeral leave shall be granted to regular, part-time employees prorated on the number of hours worked by the affected employee each month.
- (f) Funeral leave may not be accumulated.

(Ord. No. 1994-43, art. VIII, § 7, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-278. - Civil leave.

- (a) Regular employees who are called for jury duty or as a witness in any civil or criminal legal proceeding shall receive leave with pay for such duty during the required absence, without charge to vacation or sick leave. When a city employee attends court in connection with official duties, no leave is required.
- (b) Regular employees may keep fees and travel allowances received for jury or witness duty in addition to his/her regular compensation, except that employees must turn over to the city any witness fees or travel allowances awarded by the court for appearances in connection with their official duties. An employee on civil leave shall report back to work between court sessions and any other period that his/her presence is not required in court.

(Ord. No. 1994-43, art. VIII, § 8, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-279. - Military leave.

Regular, full-time employees who are members of the National Guard or Armed Forces Reserve shall be granted ten working days (five shift days for 56-hour per week employees) of leave with pay for the required two weeks military duty in a calendar year. While on military leave, benefits will accrue as if the employee were actually working. The employee is allowed to keep his/her entire military salary as well as city salary while on such leave. If such military duty is required beyond the two-calendar-week period, the employee shall be eligible to take accumulated annual leave or be placed in a leave without pay status. Requests for military leave must be made in advance and must be accompanied by the official set of orders or a letter from the commanding officer. Regular employees who are in the National Guard or the Armed Forces Reserve shall have all job rights specified in the Uniformed Services Employment and Re-employment Rights Act.

(Ord. No. 1994-43, art. VIII, § 9, 7-26-94; Ord. No. 1997-42, § 7, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-280. - Maternity procedure (leave).

In accordance with the city's policy on equal employment opportunity, female employees shall not be penalized because they required time away from work due to temporary disabilities resulting from pregnancy, childbirth, miscarriage or abortion. All such disabilities shall be treated as any other personal disability. In addition, leave without pay is also available to female employees during the period before and after childbirth, even when the period of actual physical disability, as determined by a physician, has not begun or ended.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-280 to read as set out herein. Former § 54-280 pertained to maternity leave and was derived from Ord. No. 1994-43, art. VIII, § 10, adopted July 26, 1994.

Sec. 54-281. - Leave without pay.

- (a) Regular, full-time employees may be granted leave without pay upon the written approval of the city manager. The leave may only be used for reasons of personal or family disability, including maternity. An employee must exhaust all unused annual, sick and other accumulated leave before receiving leave without pay.
- (b) An employee shall apply, in writing, to his/her immediate supervisor for leave without pay, and shall provide certification from a medical provider justifying the necessity of the absence with a specific return to work date. The supervisor will forward the leave request, with comments and recommendations, to the respective department head who will forward the request to the director of human resources.
- (c) Leave without pay must be approved by the city manager in writing prior to the leave commencing. The city manager will evaluate leave without pay requests on a case by case basis. Leave without pay will not be granted beyond 30 days. Once leave is approved by the city manager, the employee is obligated to return to work within or at the end of the time determined for such leave. The foregoing leave shall be noncumulative and any unused leave without pay shall be forfeited if not taken within one year from the first day of approved leave without pay. If the employee decides not to return to work, the supervisor and department head should be notified immediately in writing. Failure on the employee's part to return to work at the expiration of leave without pay will be considered a resignation.
- (d) An employee ceases to earn leave credits on the date leave without pay begins. An employee on leave without pay will continue to be eligible for benefits under the city's group insurance plans provided he/she pays the costs for coverage continuation as established by the city from time to time.

(Ord. No. 1994-43, art. VIII, § 11, 7-26-94; Ord. No. 2011-127, § 2, 10-11-11; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-282. - Shared leave donations.

- (a) An employee may donate sick and/or annual leave to an employee who has been approved to receive shared leave due to a serious health condition of the employee or of a family member that will require the employee's absence for a prolonged period of time.
- (b) All full-time regular employees who have been employed for at least one-year are eligible to participate.
- (c) All regular part-time employees who work at least 20 hours per week and accrue sick and annual leave and have been employed for at least one year are eligible to participate. (Refer to shared leave donation program policy for additional guidelines).

(Ord. No. 2012-178, § 1, 11-27-12)

Secs. 54-283—54-310. - Reserved.

ARTICLE IX. - PROMOTIONS, DEMOTIONS, TRANSFERS, SEPARATION AND REINSTATEMENT

Sec. 54-311. - Promotions.

- (a) When a vacancy occurs or new positions are established, current employees shall be considered for such positions based upon their eligibility and qualifications as determined by education, applicable experience, trainability, work habits, work performance in terms of quantity and quality, and years of service. Transfers that do not involve grade increases are not considered promotions for the purposes of this policy.
- (b) Employees promoted will have their pay adjusted in accordance with section 54-71.

(Ord. No. 1994-43, art. IX, § 1, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-312. - Demotions.

- (a) Any employee whose work in his/her present position is unsatisfactory or whose personal conduct is unsatisfactory may be demoted, provided the employee shows promise of becoming a satisfactory employee in another position. Such a demotion shall be in accordance with article X.
- (b) An employee who wishes to accept a position with less complex duties and responsibilities may be voluntarily demoted for reasons other than unsatisfactory performance. Such requests shall be made in writing to the department head with a copy forwarded to the human resources director.
- (c) Employees demoted will serve a six-month adjustment period in the new position in accordance with section 54-161. Employees demoted will have their pay adjusted in accordance with section 54-73.

(Ord. No. 1994-43, art. IX, § 2, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-313. - Transfers.

- (a) Any employee desiring to be transferred from one division or department to another should make the request, in writing, to the human resources director. As vacancies occur in other departments to which the employee would be eligible for transfer, his/her name will be submitted to the department head for consideration. Approval by the supervising department head, the receiving department head, and the city manager must be secured.
- (b) Any employee whose work in his/her present position is unsatisfactory or whose personal conduct is unsatisfactory may be transferred to another position in the same or a different division or department, provided the employee shows promise of becoming a satisfactory employee in another position. Such a transfer shall be preceded by the warning procedures outlined in article X.
- (c) Employees transferred may be required to serve a six-month adjustment period if the department head and the human resources director feel it is necessary in order to evaluate the employee in the new position. Employees transferred will have their salary governed by section 54-172.

(Ord. No. 1994-43, art. IX, § 3, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-314. - Separation.

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, left-job, reduction in force, disability, retirement, death, or dismissal.

- (1) *Resignation.* An employee may resign by submitting, in writing, the reasons and the effective date of such resignation to the respective department head as far in advance as possible, but a minimum of 15 calendar days is required. Failure to comply with this provision shall result in forfeiture of future re-employment rights with the city.

- (2) *Left job.* Unauthorized or unreported absence from the job for three consecutive work days shall be considered as a resignation on the part of the employee and, therefore, the employee shall automatically be dropped from the city's roster and payroll.
- (3) *Reduction in force.* In the event that a reduction in force becomes necessary, consideration shall be given to the quality of employee's past performance, the need for the employee's service, and seniority in determining those employees to be retained. Employees who are laid off because of reduction in force shall be given at least 15 calendar days' notice of the anticipated layoff.

In addition to proper notice, the city manager may authorize a separation payment if such payment is warranted. No regular employee shall be separated for reduction in force while there are temporary employees serving in the same class in the department, unless the regular employee isn't willing to transfer to the position being held by the temporary employee.

- (4) *Disability.* An employee may be separated for reasons of disability (including those incurred on the job) when that employee cannot perform the required duties because of a physical or mental impairment. Action may be initiated by either the employee or the city, but in all cases it must be supported by medical evidence, as certified by a competent physician. The city may require an examination at its expense and performed by a physician of its choice.

Before an employee is separated for disability, a reasonable effort shall be made to locate alternate positions within the city's service for which the employee may be suited.

- (5) *Retirement.* When an employee meets the conditions set forth under the provision of the state local governmental employee's retirement system or the state law enforcement officers' benefit and retirement system, he/she may elect to retire and receive all benefits earned under the provisions of the retirement system.
- (6) *Death.* All compensation due to an employee shall, upon his/her death, be paid to his/her estate. All insurance policies, retirement contributions and similar funds shall be paid to the decedent's designated beneficiary upon his/her death. The date of death shall be recorded as the separation date.
- (7) *Dismissal.* Any employee may be dismissed in accordance with article X.

(Ord. No. 1994-43, art. IX, § 4, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-315. - Reinstatement.

- (a) An employee who resigns while in good standing or who is separated because of reduction in force may be reinstated within one year of the date of separation upon the recommendation of the respective department head, the human resources director and the approval of the city manager. Such employees reinstated shall be credited with previously accrued sick leave and previous service and will receive all benefits provided in accordance with this chapter. The salary of persons reinstated under this subsection shall be as close as reasonably possible, given the circumstances of each employee's case, to the salary previously attained by the employee in the salary range for the previous class of work. An employee requesting reinstatement may be subject to certain elements of pre-employment testing.

NOTE: REINSTATEMENT OF EMPLOYMENT IS NOT A RIGHT.

- (b) A regular employee called into extended active duty with the United States military forces shall be reinstated and credited with previous service and accrued sick leave as well as receive all benefits provided in accordance with this ordinance, provided:
 - (1) Application for reinstatement is made within 90 calendar days of release from military service; and

- (2) The employee is still able to perform the duties of the former position or a similar position.
- (c) All former employees requesting re-employment shall complete an application for employment as would any other person interested in employment.

(Ord. No. 1994-43, art. IX, § 5, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-316. - Right of appeal.

Any employee demoted, transferred or dismissed, except those employees on probation as stated in section 54-160 may appeal in accordance with article X.

(Ord. No. 1994-43, art. IX, § 6, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Secs. 54-317—54-340. - Reserved.

ARTICLE X. - DISCIPLINARY ACTIONS AND NONDISCIPLINARY SUSPENSIONS

Sec. 54-341. - Disciplinary actions.

It is the policy of the city to resolve employee problems as they develop and, whenever possible, before they actually develop, through counseling, proper supervision, training, and informal dialogue. This approach is intended to accommodate individual differences in employees as well as allow employees to make corrective changes in their behavior and performance patterns for both the benefit of themselves and the city. However, if informal discussions are unsuccessful, disciplinary action shall be taken in accordance with this article. The city manager is exempt from coverage under this article.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-341 to read as set out herein. Former § 54-341 pertained to general policy; exemption of city manager and was derived from Ord. No. 1994-43, art. X, § 1, adopted July 26, 1994.

Sec. 54-342. - By whom imposed and reason therefore.

- (a) *Authority to take action; cause.* Disciplinary action may be taken against an employee by that employee's department head, with the concurrence of the human resources director, except that only the city manager may suspend an employee for more than three working days or dismiss an employee. Subject to section 54-160, all disciplinary actions taken against an employee must be for "cause". Failure in performance of duties, violations of law, ordinance, rules or regulations, failure in personal conduct, or failure to meet or maintain required conditions of employment constitute cause.
- (b) *Police personnel.* Employees who fall under the jurisdiction of the police civil service board are subject to the conditions and protection as provided by section 42 of the Charter.
- (c) *Suspensions.* All disciplinary suspensions are without pay and are measured in actual work days.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-342 to read as set out herein. Former § 54-342 pertained to imposition of disciplinary action and was derived

from Ord. No. 1994-43, art. X, § 2, adopted July 26, 1994 and Ord. No. 1997-42, § 2, adopted August 26, 1997.

Sec. 54-343. - Warnings before disciplinary action.

Whenever practical, before disciplinary action is taken, an employee shall be counseled and warned that a particular course of conduct or pattern of performance will result in disciplinary action, and all efforts should be made to assist the employee in improving his/her conduct or performance. The human resources director shall require proof of counseling and warnings, in writing, whenever feasible before disciplinary action is taken.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-342 to read as set out herein. Former § 54-342 pertained to warnings prior to taking disciplinary action and was derived from Ord. No. 1994-43, art. X, § 3, adopted July 26, 1994 and Ord. No. 1997-42, § 2, adopted August 26, 1997.

Sec. 54-344. - Notification of disciplinary action.

Before any discipline is imposed, an employee shall be informed by his/her department head of the precise nature of the discipline, the reasons for the discipline, and the date and time the discipline is to become effective. Whenever practical, this notification shall be given in writing before the discipline is imposed, and, if this is not possible, then the written notification shall be given to the employee as soon thereafter as is feasible.

(Ord. No. 1994-43, art. X, § 4, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-345. - Effective date and time—Disciplinary action.

Except when the department head determines that any delay in the imposition of discipline would diminish its effectiveness or would be detrimental to the city, employees or others, the department head shall provide the employee with at least three working days' notice before the proposed disciplinary action is to take effect.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-345 to read as set out herein. Former § 54-345 pertained to effective date of disciplinary action and was derived from Ord. No. 1994-43, art. X, § 5, adopted July 26, 1994.

Sec. 54-346. - Procedures for recommendations—Disciplinary actions.

- (a) *Authority of department heads and supervisors.* A department head may recommend and take disciplinary action with the concurrence of the human resources director that is not more severe than suspension for three working days. Supervisors may take, with the concurrence of the department head, disciplinary action in the form of oral and written warnings.
- (b) *Recommendations to city manager.* A department head may recommend that disciplinary action that is solely within the prerogative of the city manager (suspension for more than three working days and

upward in severity) be taken. Such a recommendation shall first be made in writing and sent along with supportive documentation to the human resources director for review.

Upon review completion, the human resources director will forward the recommendation to the city manager for approval or disapproval. At this point, a copy of the recommendation shall be given to the affected employee. If the recommendation is for dismissal, it shall contain a proposed dismissal date, which shall not be less than five work days after a copy of the recommendation is furnished to the affected employee.

- (c) *Continuation of suspension pending outcome of appeal.* Should a department head suspend an employee for three work days and recommend that the employee be dismissed, the city manager may continue the suspension pending the outcome of any appeal. The department head shall notify the employee in writing of the city manager's decision at the earliest possible time that the suspension is being continued.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-346 to read as set out herein. Former § 54-346 pertained to recommendation of disciplinary action and was derived from Ord. No. 1994-43, art. X, § 6, adopted July 26, 1994 and Ord. No. 1997-42, § 2, adopted August 26, 1997.

Sec. 54-347. - Emergency suspension.

- (a) When it is determined by the department head that any employee has committed an extremely serious violation of ordinance, policy or procedure, or that the best interest of the city would be served given a certain circumstance, the department head may impose an emergency suspension on the employee. Such suspensions will originate as non-disciplinary suspensions with pay and will last no longer than one working day.
- (b) Should the department head impose an emergency suspension, the human resources director and the city manager are to be notified of the suspension and the reasons for the suspension as soon as feasible, but no later than 24 hours after the suspension took effect.
- (c) Should a disciplinary action arise out of the circumstances which brought on the emergency suspension, then all procedures shall be governed by this article.

(Ord. No. 1994-43, art. X, § 7, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-348. - Appeal of disciplinary action.

- (a) An employee may appeal any disciplinary or proposed disciplinary action subject to section 54-342, to the city manager. The appeal may be decided by the city manager after a review of any written documents submitted by the appellant and the department head who imposed the discipline, or at the request of the appellant, department head, or city manager, a hearing may be held in accordance with section 54-349.
- (b) An appeal shall be perfected within three work days after the employee receives notice of the proposed disciplinary action or, if the disciplinary action becomes effective immediately (without the three-day delay provided for in section 54-345), within three work days after such disciplinary action becomes effective.
- (c) An appeal is perfected by an appellant filing with the city manager a written notice of appeal, briefly stating the action appealed and the reasons for the appeal. A copy of this written notice of appeal

shall be furnished by the appellant to the respective department head and the human resources director.

- (d) If the discipline has not taken effect at the time an appeal is perfected, then the appeal automatically stays the proposed disciplinary action until after the appeal is decided. Should discipline already be in effect as provided for by section 54-345, the city manager may elect to stay the disciplinary action until after the appeal is decided.
- (e) An appeal shall be considered by the city manager at the earliest convenient time, but not later than ten working days after the appeal is filed.

(Ord. No. 1994-43, art. X, §§ 8—11, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 1997-43, § 1, 8-26-97; Ord. No. 1997-44, § 1, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-349. - Disciplinary hearing.

- (a) If the appellant, department head or the city manager requests a disciplinary hearing, an oral hearing shall be held. The hearing shall be closed to the public.
- (b) The appellant and the respective department head shall be given at least three working days' notice of the date, location and time of the hearing, in writing, by the human resources director.
- (c) Unless the appellant is a department head, the department head shall present the reasons why the discipline imposed or to be imposed is justified. The department head may introduce any evidence of documentation deemed appropriate. The employee (appellant) shall then have an opportunity to ask questions, present evidence, including oral or witness testimony, or otherwise attempt to convince the city manager that the disciplinary action is not justified.
- (d) The appellant may be represented by counsel.
- (e) If the appellant is a department head, then the city manager shall present to the department head the reasons for the discipline, and the department head shall then have the opportunity to respond in the same manner as other appellants.
- (f) All disciplinary hearings shall be attended by the city manager, human resources director, the respective department head, the appellant and his/her counsel (if any). The city attorney shall attend those hearings which involve separation and any other hearings at the request of the city manager. All hearings will be tape recorded in full in order that a complete record of the hearing may be maintained.

(Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-350. - Decision of disciplinary actions.

- (a) The city manager shall decide the appeal as expeditiously as possible, and, in particular, every effort shall be made to decide any appeal of disciplinary action that has not yet taken effect before the proposed effective date of such action.
- (b) The city manager may take any action with respect to disciplinary appeals that he deems appropriate, consistent with this ordinance, including, but not limited to, increasing or decreasing the disciplinary sanction. Should the city manager permit the appellant to remain an employee of the city, he may require the appellant to serve such additional period of probation as he/she may deem appropriate. The city manager shall inform the appellant and the respective department head of his/her decision and the reasons for it, in writing.
- (c) The city manager may impose probationary periods as part of the discipline process. During such periods, the employee shall be considered as any new employee on probation except for provisions limiting leave benefits.

- (d) If any employee has been suspended and the city manager finds the suspension to have been unwarranted, then the employee shall be entitled to receive all lost wages and benefits.
- (e) If the city manager sustains an employee's appeal (at least in substantial part), the city manager may authorize partial or full payment by the city of reasonable fees incurred by the employee for legal representation.

(Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-351. - Finality of decision.

The decision of the city manager shall be conclusive and final, and there shall be no further appeal.

(Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-352. - Non-disciplinary suspension.

- (a) With the approval of the city manager, a department head may impose a non-disciplinary suspension (with or without pay) on any employee who has been accused of some action which, if the accusation is substantiated, would constitute cause for disciplinary action. There may be no appeal from a non-disciplinary suspension.
- (b) If a non-disciplinary suspension is imposed, the employee shall be notified in writing:
 - (1) That the suspension is non-disciplinary;
 - (2) That the suspension is temporary in nature (for example, pending the outcome of a criminal trial or internal investigation);
 - (3) What the accusations or allegations are that triggered the non-disciplinary suspension; and
 - (4) Why a non-disciplinary suspension has been imposed in this particular case.
- (c) If it is determined (through a criminal trial, internal investigation or otherwise) that the charges are not substantiated, then the employee shall be reinstated with full recovery of any lost wages or benefits.
- (d) If it is determined that the charges are substantiated, then appropriate disciplinary action may be taken in accordance with this article. If an employee has been suspended without pay pending the outcome of the investigation and the employee is not dismissed and the discipline imposed is less severe than the suspension without pay the employee has already experienced, the employee may be entitled to partial recovery of lost wages or benefits, according to the discipline imposed.

(Ord. No. 1994-43, art. X, § 12, 7-26-94; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, created a new §§ 54-349—54-351 renumbered §§ 54-349—54-351 as §§ 54-352—54-354.

Sec. 54-353. - Role of human resources department.

Throughout the disciplinary and non-disciplinary procedure, the role of the human resources department shall be to advise all parties of their rights and responsibilities under this ordinance and other related policies, to be a clearinghouse for information and decisions, to give notice to all parties, to assist in drafting statements and to resolve conflicts in procedures.

(Ord. No. 1994-43, art. X, § 13, 7-26-94; Ord. No. 1997-42, § 1, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— See note at § 352.

Sec. 54-354. - Coverage.

The city manager may take disciplinary action against or impose non-disciplinary suspensions against any employee, including department heads. In taking such actions against department heads, the city manager shall be guided to the extent feasible by the procedures set forth in this article.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Former § 54-354 pertained to authority of city manager and was derived from Ord. No. 1994-43, art. X, § 14, adopted July 26, 1994. See note at § 352.

Secs. 54-355—54-380. - Reserved.

ARTICLE XI. - GRIEVANCES

Sec. 54-381. - Purpose.

The purpose of this grievance procedure is to:

- (1) Provide employees a procedure by which their complaints can be considered rapidly, fairly and without reprisal.
- (2) Encourage employees to express themselves about the conditions which affect them as employees.
- (3) Promote better understanding of policies, practices and procedures that affect employees.
- (4) Instill in employees confidence that personnel actions are taken in accordance with established, fair and uniform policies and procedures.
- (5) Develop in supervisors a greater sense of responsibility in their dealing with employees.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-381 to read as set out herein. Former § 54-381 pertained to purpose of article and was derived from Ord. No. 1994-43, art. XI, § 1, adopted July 26, 1994.

Sec. 54-382. - Procedure.

When an employee or group of employees has a grievance, the following successive steps are to be taken. The number of days indicated at each level should be considered as the maximum number of working days unless provided for otherwise, and every effort shall be made to expedite the process. However, when mutually agreed upon, the time limit given below may be extended.

- (1) *Presentation to supervisor.* The employee with a grievance shall present the matter orally or in writing to his immediate supervisor within ten days of the time the employee learns of its occurrence, with the objective of resolving the matter informally. The supervisor should and is encouraged to consult with any city employees or officer deemed necessary to reach a correct,

impartial and equitable determination and shall give the employee an answer, in writing, as soon as possible, but within three working days. The grievance and answer shall be reported to the supervisor's immediate superior.

- (2) *Filing with department head.* If the grievance is not resolved by the procedure outlined in subsection (1), the employee or group of employees may file their grievance, in writing, within ten working days with the department head who shall hear the grievance within three working days and render a decision, in writing, within a maximum of three working days.

If the supervisor with whom the informal grievance is filed under subsection (1) is a department head, the department then need not hear the grievance again, but the grievance and the department head's response should be stated in writing. A copy of the grievance shall be forwarded to the human resources director at the time it is forwarded to the department head. Upon reaching a decision on the grievance, the department head shall furnish a copy of the decision to the human resources director, signed and dated by the employee to acknowledge receipt of the response.

- (3) *Appeal to human resources director; decision by city manager.* If the grievance is not resolved to the satisfaction of the employee or group of employees, the grievance may be appealed by giving written notice within ten working days to the human resources director. The human resources director shall gather all information and documents relating to the grievance and forward it to the city manager. The city manager may, at his option, decide the grievance based upon the written information submitted, through an oral grievance hearing, or a combination of the two. The city manager shall decide the grievance, in writing, within ten working days.

(Ord. No. 1994-43, art. XI, § 2, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-383. - Human resources department review.

In addition to assisting and advising parties involved in the grievance, the human resources director shall review all grievances in order to insure that the city's policies of equal employment opportunity and non-discrimination are adhered to.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-383 to read as set out herein. Former § 54-383 pertained to review by human resources department and was derived from Ord. No. 1994-43, art. XI, § 3, adopted July 26, 1994 and Ord. No. 1997-42, §§ 1, 2, adopted August 26, 1997.

Sec. 54-384. - Finality of decision.

The decision of the city manager shall be conclusive and final, and there shall be no further appeal.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-384 to read as set out herein. Former § 54-384 pertained to finality of decision of city manager and was derived from Ord. No. 1994-43, art. XI, § 4, adopted July 26, 1994.

Sec. 54-385. - Non-conflict clause.

No decision or determination of any grievance shall in any way conflict with any city policies, ordinances or applicable statutes.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-385 to read as set out herein. Former § 54-385 pertained to decisions not to conflict with city policy or applicable law and was derived from Ord. No. 1994-43, art. XI, § 5, adopted July 26, 1994.

Secs. 54-386—54-410. - Reserved.

ARTICLE XII. - PERSONNEL RECORDS AND REPORTS

Sec. 54-411. - Purpose.

The human resources director shall maintain such employee personnel records and reports as are necessary for the proper administration of the personnel system in accordance with G.S. 160A-168 (privacy of employee personnel records). Each personnel file shall contain those documents which are relevant to accomplishing the personnel function. Personnel reports such as the classification and pay plan which have been adopted by the board of aldermen shall be public records and shall be open for public inspection during the normal office hours at reasonable times in accordance with such procedures and guidelines as the city manager may prescribe.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-411 to read as set out herein. Former § 54-411 pertained to generally and was derived from Ord. No. 1994-43, art. XII, § 1, adopted July 26, 1994 and Ord. No. 1997-42, § 2, adopted August 26, 1997.

Sec. 54-412. - Reserved.

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, repealed § 54-412 in its entirety. Former § 54-412 pertained to personnel forms and reports and was derived from Ord. No. 1994-43, art. XII, § 7, adopted June 26, 1994.

Sec. 54-413. - Personnel files.

- (a) For purposes of this article, the term "personnel file" includes any information in any form gathered by the city with respect to that employee.
- (b) The following information on each employee which is maintained in the employee's personnel file shall be open to public inspection in accordance with G.S. 160A-168:
 - (1) Name;
 - (2) Age;
 - (3) Date of original employment or appointment to city service;
 - (4) Current position title;
 - (5) Current salary;
 - (6) Date and amount of most recent change in salary;

- (7) Date of most recent promotion, demotion, transfer, suspension, separation, or other change in status; and
- (8) Office or department to which the employee is currently assigned.
- (c) Other information maintained in an employee's personnel file may be made available only in accordance with section 54-415.
- (d) The human resources department and, more specifically, the human resources director shall be the official city custodian of all employee personnel files.
- (e) Each personnel file shall contain such documents as the employment application and resume, records of all personnel transactions, performance evaluations, retirement, insurance and tax records, test results, certificates of achievements, pre-employment background information, letters of recommendation and commendations, disciplinary actions and supportive documents, and any other documents which may be relevant.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-413 to read as set out herein. Former § 54-413 pertained to contents of personnel files; official custodian and was derived from Ord. No. 1994-43, art. XII, § 2, adopted July 26, 1994 and Ord. No. 1997-42, §§ 1, 2, adopted August 26, 1997.

Sec. 54-414. - Access to personnel files.

As required by G.S. 160A-168, any person may have access to the information listed in subsection 54-413(b) for the purpose of inspection, examination and copying during the regular business hours, subject only to such rules and regulations for the safekeeping of public records as the board of aldermen may adopt. Access to such information shall be governed by the following provisions:

- (1) All disclosures of records shall be accounted for by keeping a written record (except for authorized persons processing personnel actions) of the following information: Name of employee; information disclosed; date information was requested; name and address of the person to whom the disclosure is made; purpose for which information is requested. This information must be retained as a permanent part of the employee's personnel file and a copy of such disclosure delivered to the employee.
- (2) An individual examining a personnel record may copy the information. Any available photocopying facilities may be provided, and the cost may be assessed to the individual.
- (3) Any person denied access to any record shall have a right to appeal by application to a court of competent jurisdiction for a writ of mandamus or other appropriate relief.
- (4) An employee may sign a written release to be placed with his/her personnel file that permits the person with custody of the file to provide, either in person, by telephone or by mail, information specified in the release to prospective employers, educational institutions or other persons specified in the release.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-414 to read as set out herein. Former § 54-414 pertained to access to public information in personnel files and was derived from Ord. No. 1994-43, art. XII, § 3, adopted July 26, 1994.

Sec. 54-415. - Confidential information contained in personnel files.

All information contained in a city employee's personnel file, other than the information listed in subsection 54-413(b), will be kept confidential in accordance with the requirements of G.S. 160A-168 and shall be open to public inspection only in the following instances:

- (1) The employee or his duly authorized agent may examine all portions of his personnel file, except:
 - a. Letters of reference solicited prior to employment.
 - b. Information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
 - c. Testing or examination material used solely to determine individual qualifications for appointment, employment or promotion in the city's service when disclosure would compromise the objectivity or the fairness of the testing or examination process.
 - d. Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is complete and no criminal action is taken, or until the criminal action is concluded.
 - e. Information that might identify an undercover law enforcement officer or a law enforcement informer.
 - f. Notes, preliminary drafts, and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.
- (2) A licensed physician designated in writing by the employee to examine the employee's medical record. (not complete sentence)
- (3) A city employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- (5) Any official of an agency of the state or federal government, or any subdivision of the state, may inspect any portion of a personnel file when such information is deemed a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of such records may release the name, address and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- (6) Each individual requesting access to confidential information will be required to submit satisfactory proof of identity.
- (7) A record shall be made of each disclosure and placed in the employee's file (except of disclosures to the employee and supervisor).
- (8) The board of aldermen may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research or academic institution if that person certifies that he will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research or teaching purposes. This certification shall be obtained by the city as long as each personnel file examined is retained.
- (9) The city manager, with concurrence of the board of aldermen, may inform any person of the employment or non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer or termination of a city employee and the reasons for that personnel action. Before releasing the information, the city manager or board of aldermen shall determine, in writing, that the release is essential to maintaining public confidence in the administration of city services or to maintaining the level and quality of city services. This written documentation

shall be retained in the office of the city manager or the city clerk, and is a record available for public inspection and shall become part of the employee's personnel file.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-415 to read as set out herein. Former § 54-415 pertained to access to confidential information in personnel files and was derived from Ord. No. 1994-43, art. XII, § 4, adopted July 26, 1994.

Sec. 54-416. - Records of former employees and applicants.

The provision and definitions regarding access and confidentiality of personnel records apply to present employees, former employees and applicants for employment.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-416 to read as set out herein. Former § 54-416 pertained to access to records of former employees and applicants and was derived from Ord. No. 1994-43, art. XII, § 5, adopted July 26, 1994.

Sec. 54-417. - Remedies of employees objecting to material in file.

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

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-417 to read as set out herein. Former § 54-417 pertained to remedies of employees objecting to material in personnel file and was derived from Ord. No. 1994-43, art. XII, § 6, adopted July 26, 1994.

Sec. 54-418. - Personnel forms and reports.

The city manager and his designated representative shall prescribe necessary personnel forms, reports and other record-keeping requirements necessary to comply with applicable laws and administer the personnel system.

(Ord. No. 2012-178, § 1, 11-27-12)

Sec. 54-419. - Internal investigation records.

- (a) If an internal investigation is undertaken in response to a complaint by a citizen, then the city may disclose to the complainant that an investigation was made and whether the city determined that the charge was founded or unfounded.
- (b) The city may disclose the nature of any disciplinary action and reason(s) for it pursuant to subsection 54-415(i). However, if subsection 54-415(i) is not invoked, then the city is limited to its disclosure of such information in accordance with subsection 54-413(b).

- (c) All internal investigation files relating to the conduct of/or regarding employees of the city shall be turned over to the custody of the human resources director.
- (d) When the investigation does not result in any criminal action or other personnel decision, the internal investigation file must be immediately destroyed by the human resources director. If the investigation results in criminal action taken or a personnel decision being made as a result of the investigation, the internal investigation file must be maintained in accordance with G.S. 160A-168(c)(1).

(Ord. No. 1994-43, art. XII, § 8, 7-26-94; Ord. No. 1997-42, § 2, 8-26-97; Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, renumbered §§ 54-418 and 54-519 as §§ 54-419 and 54-420.

Sec. 54-420. - Penalties.

- (a) As provided in G.S. 160A-168, any public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this article, is guilty of a misdemeanor and upon conviction, shall be fined an amount not more than \$500.00.
- (b) As provided in G.S. 160-168, any person not specifically authorized to have access to a confidential personnel file who knowingly and willfully examines, removes or copies any portion of such confidential personnel file shall be guilty of a misdemeanor and, upon conviction, shall be fined in an amount not to exceed \$500.00.

(Ord. No. 2012-178, § 1, 11-27-12)

Editor's note— Ord. No. 2012-178, § 1, adopted November 27, 2012, amended § 54-420 to read as set out herein. Former § 54-420 pertained to unlawful examination of records; penalty and was derived from Ord. No. 1994-43, art. XII, § 9, adopted July 26, 1994. See note at § 54-419.