

COMPREHENSIVE EMPLOYEE MANAGEMENT SYSTEM

Adopted By

The Common Council of

The City of Winchester

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All references made in the City's Comprehensive Employee Management System to the male gender (i.e., he, his, him, himself) shall be interpreted to include the female gender (i.e., she, her, hers, herself).

ADMINISTRATION

1.1 Adoption of Comprehensive Employee Management System

The City of Winchester, Virginia, Comprehensive Employee Management System set forth herewith supersedes all previous personnel policies and procedures and, having been approved by the City Manager and adopted by the City Council effective July 1, 1979, as revised, serves as the Comprehensive Employee Management System governing all City employees except those specifically exempted.

1.2 General Policy

It shall be the policy of the City of Winchester that:

- employment shall be based on merit and fitness, without regard to race, color, religion, national origin, political affiliation, disability, gender, or age;
- just and equitable incentives and conditions of employment shall be established and maintained;
- City employees shall be paid in relation to the value of the work they perform and performance shall be a major factor in justifying salary adjustments and increases.

1.3 Objectives

The specific objectives of the City's Comprehensive Employee Management System shall be:

- to provide uniform standards for a comprehensive employee management system;
- to provide standards of expected behavior and performance;
- to provide a fair and equitable mechanism to resolve employee relations issues;
- to establish and maintain a salary and benefits structure that will attract and retain qualified employees;
- to establish and maintain salary ranges which will assure internal equity of compensation based on the systematic evaluation of each job;
- to maintain the salary structure in a proper relationship with competitive pay practices in the labor market in which the City competes;

- to assure each City employee a performance review at specified intervals;
- to outline safety and health standards, policies, procedures, and expectations;
- to provide effective procedures for salary payments in a uniform manner;
- to furnish City management with a consistent and effective means of recognizing and rewarding improved and outstanding performance.

1.4 Limitations

The City's Comprehensive Employee Management System is not intended to set forth or suggest any expressed or implied contractual obligations of the City. The City retains the right to change any of the provisions and policies reflected herein, at any time as circumstances may warrant. The employment of any employee by the City is terminable at any time at the will of the City, and the existence of cause for such termination or any other form of discipline shall be a judgment reserved to the City at its sole discretion.

All references to the male gender (i.e. he, his, him, himself) in the Comprehensive Employee Management System shall be interpreted to include the female gender (i.e. she, her, hers, herself).

1.5 Authority and Scope

The City Council and the City Manager are empowered under the Code of Virginia and the City Charter to establish departments, to employ personnel and to set salaries. (See Appendix A for Listing of City Officials)

The City Council is responsible for establishing personnel policies.

The City Manager is the City's Chief Personnel Officer and is responsible for administering the personnel policies and procedures. The City Manager may delegate to the Administration Director and to others such of his duties as may be deemed appropriate in connection with the administration of these policies.

City employees are divided into the **classified** and the **non-classified services**.

- A. The **non-classified service** shall be exempt from most provisions of these regulations except that the general standards of conduct as defined in the Comprehensive Employee Management System shall apply. The non-classified service shall include the following:
 1. All elected officials and their employees, except the employees of the Commissioner of the Revenue, Sheriff, Treasurer, and the Commonwealth Attorney;

2. Volunteer personnel and personnel appointed to serve without pay;
 3. Consultants and counsel rendering professional service;
 4. Positions involving seasonal or temporary employment;
 5. Student interns and work-study employees; and
 6. Such other positions as may be designated by the City Council.
- B. All other employees shall be in the **classified service** and shall be subject to the provisions of these regulations unless herein otherwise provided.

1.6 **Types of Employment**

A. **Probationary Employee**

One who has not completed the requisite probation period. This shall be defined as the first six (6) calendar months of employment, re-employment or promotion to new position for most City employees. The probationary period for uniformed members of the Fire and Rescue Department and employees working as Benefit Programs Workers and Social Workers in the Department of Social Services shall be twelve (12) months. The probationary period for Communications Specialists in the Emergency Communications Center will start on the date of hire and conclude six (6) months after completion of training and certification. The probationary period for sworn members of the Police Department shall begin on the date of hire and conclude twelve (12) months from the date they successfully complete the basic training academy.

The probationary period is provided as a means for both the employee and supervisor to determine the employee's suitability for further employment. Either party may terminate employment during or at the conclusion of the probationary period without prejudice.

There is no appeal provided a new employee who is released during the probationary period except where discrimination based on race, color, religion, national origin, political affiliation, gender, age, or disability is claimed.

Probationary employees may take earned leave with pay during the probationary period with prior approval of the Department Head and advice of the Administration Director.

B. **Classified Employee**

One who has satisfactorily completed a probationary period and is appointed to an authorized position without further limitation as to length of service other than continuation of position need, funding, and satisfactory performance and conduct. Classified employees may be part-time or full-time and are eligible to receive City benefits in proportion to hours worked.

1. **Full-Time Employee**

One who is employed to regularly work 40 hours or more per week.

2. **Part-Time Employee**

One who is employed to regularly work 20 to 40 hours per week.

C. **Non-Classified/Temporary Employee**

One who is employed without commitment as to tenure normally for limited short term projects or peak work loads usually not to exceed six months. Temporary employees may be part-time or full-time and are not eligible to receive benefits.

CLASSIFICATION PLAN

2.1 Definition

The Position Classification Plan is the approved system of grouping positions into appropriate classes (See Appendix B). Every job is evaluated and classified according to the kind of work and degree of responsibility assigned. Jobs that are sufficiently alike in duties and responsibilities are assigned or allocated to the same class. Each class is evaluated in comparison with other classes and is assigned to a pay grade in the compensation plan.

2.2 Maintenance of the Plan

- A. Changes to the Position Classification Plan shall be made only with the approval of the City Manager and Council.
- B. The City Manager through the Administration Director shall maintain an official copy of the Position Classification Plan. The official copy shall include a schematic list of class titles and class specifications plus all amendments thereto.
- C. Each time a new class is established; a class specification shall be written and incorporated into the existing plan. The class title shall be added to the Schematic List of Classes. Likewise, an abolished class shall be deleted from the Position Classification Plan by removing the class title from the Schematic List of Classes. Reclassification is defined as a reassignment of the appropriate job title and pay range to a position whose current classification does not accurately reflect the actual duties performed. When such position cannot accurately be described or compensated by assignment to an existing class, the City Manager shall establish a new class with appropriate title and salary range. When an employee is reclassified, his salary shall be increased to the minimum of the new pay grade, unless his salary already falls within the new grade. When this occurs, the City Manager may authorize a higher salary as deemed appropriate.
 - 1. Department Heads are responsible for bringing to the attention of the Administration Director any new position or reclassification request. The request shall include a completed request for classification action form (See Appendix C), job description form, and department organizational chart.
 - 2. The Administration Department shall examine the request and make a recommendation to the City Manager for Council's approval. No

person shall be appointed, promoted, demoted, transferred, or paid in any position until the position has first been established.

3. Likewise, Department Heads shall report to the Administration Director any authorized position within their respective departments which they desire to discontinue. After approval to delete the position, it shall be removed from the list of approved positions.
- D. The class specifications are descriptive and not restrictive. The use of a particular description as to duties, qualifications or other factors shall not be held to exclude others of similar kind or quality. Descriptions are intended to indicate the kinds of positions which shall be allocated to the classes established.

PAY PLAN

3.1 Establishment of Pay Plan

There is hereby established a formal pay plan to be approved by the City Council upon recommendation of the City Manager. The official pay plan for the City service shall consist of a schedule showing established annual pay ranges for each pay grade and the title of classes of all positions in each grade in the classified service (See Appendix D). The procedure for securing needed amendments to the official salary plan shall involve investigation and recommendation by the City Manager on the appropriate action to be taken by the City Council.

3.2 Pay Rates

The rates of pay of City employees shall be in accordance with the scheduled salary ranges as adopted and amended by appropriate action of the City Council. The schedule shall be effective in all cases except as otherwise provided for in this section.

3.3 Pay Period, Pay Day, and Pay Week

The regular pay period for general government employees is a fourteen day period commencing on Saturday and ending at the close of the workday on Friday, two weeks later. Pay day is normally every other Friday. Pay week is defined as the week in which pay day occurs.

3.4 Payroll Procedures

A. Time Sheets

Department Heads are responsible for the submission of correct information on employees' time sheets. Every effort will be made to have the employee sign the time sheet after its completion. No time sheet shall be processed without Department Head or designee signature. Time sheets shall be submitted to the Finance Department by 12 noon on the Monday of pay week.

B. Mandatory Direct Deposit

Employees are required to provide to the Administration Department account information in order that the pay may be automatically deposited every other Friday.

3.5 General Increase

General increase is defined as an adjustment of the pay plan for all classes of positions simultaneously. Such action may be recommended by the City Manager and must be approved by the City Council.

3.6 Anniversary Raise

Anniversary Raise is defined as an increase within the pay range of a class that is paid to employees in the first 20 pay grades on their anniversary date which is usually their date of initial employment with the City. Employees in pay grades 21 and higher (with some exceptions – see Appendix E) are not eligible. Grades 21 and higher contain single position classifications usually not impacted by compression. An Anniversary Raise may be delayed or denied because of unsatisfactory job performance, disciplinary action, or general pay plan increase or position adjustment.

Any employee between 2 years and 25 years service will receive 5 cents increase effective when the annual increases are awarded when reaching the following thresholds:

2 years = 5 cents	9 years = 5 cents
3 years = 5 cents	12 years = 5 cents
4 years = 5 cents	16 years = 5 cents
5 years = 5 cents	21 years = 5 cents
7 years = 5 cents	25 years = 5 cents

3.7 Merit Increase

Merit increase is defined as an increase within the pay range of a class that is awarded to an employee upon the completion of a prescribed period of successful job performance. The amount of merit monies shall be within budgetary amounts approved by City Council. Such increases are awarded on the basis of the degree of satisfactory job performance and may become effective on or after the date of eligibility. A merit increase may be delayed, lowered or denied because of unsatisfactory job performance, disciplinary action, general pay plan increase, position adjustment, and/or anniversary raise.

3.8 Salary Actions

A. Original Employment

Original employment is defined as an employee's initial period of continuous employment in a classified position with the City of Winchester. An individual beginning employment with the City for the first time will usually be placed at the minimum of the pay grade established for the class in which employed. Occasionally, however, based on a new employee's prior experience and proficiency in the same or related capacity, placement

may be accelerated to a higher level in the assigned grade upon approval of the City Manager within current budget constraints.

B. Promotion

Promotion is defined as the advancement to a higher pay grade authorized for an employee in conjunction with increased job duties and responsibilities. When an employee is promoted, his salary shall be increased at least to the minimum for the new class or 5% above present salary, whichever is greater. The City Manager may authorize a higher salary within the pay grade when deemed appropriate. An employee whose promotion is effective on his eligibility date for merit increase may receive a merit increase prior to the promotional increase.

Upon promotion, employees are placed in a promotion probationary status for a minimum of six (6) months. Employees in a promotion probationary status maintain benefits and the use of the grievance procedure. A satisfactory evaluation at the end of this period will provide for continuation in that position subject to continued satisfactory performance. An unsatisfactory evaluation may result in a return to the position held immediately prior to the promotion.

C. Demotion

Demotion is defined as a reduction in the pay grade of an employee in conjunction with a change in job duties and responsibilities or disciplinary action. When an employee is reduced to a lower pay grade, his salary within the new pay grade shall be approved by the City Manager.

D. Reinstatement

Reinstatement is defined as employment in the same class. An individual may return to duty in the same position and class only with the approval of the Department Head and the City Manager. The appropriate pay within the approved grade of the class for all reinstated employees shall be approved by the City Manager.

All time earned previous to reinstatement shall be counted towards the probationary period, accruals, etc. However, actual time missed prior to reinstatement shall be discounted from such accruals.

E. Re-employment

Re-employment is defined as employment following a separation from City employment of more than thirty (30) consecutive calendar days. A returning employee will usually be placed at the minimum of the position's

approved pay grade. Occasionally, however, based on the returning employee's prior proficiency and experience in same or related capacity, acceleration above the minimum of the assigned grade may be made upon recommendation by the Department Head and approval of the City Manager. All time earned in previous employment shall not be counted towards leave or other longevity based employment conditions or benefits.

F. **Transfer**

Transfer is defined as the movement from one position to another in the same pay grade.

G. **Resignation**

Resignation is defined as a voluntary separation from employment through prior notification to the employing authority initiated by the employee.

All classified employees desiring to resign their employment with the City shall submit written notification of such intent to their employing authority. This notification shall include the reason for resignation and the actual date the resignation is to become effective, and shall be signed by the employee. A copy of the notification shall be forwarded to the City Manager along with a termination form for inclusion in the official personnel file (See Appendix F).

In order to leave in good standing, employees are required to give at least fourteen (14) calendar days notice prior to the effective date of resignation, except where specific circumstances prohibit such advance notification. Uniformed members of the Fire and Rescue Department, sworn law enforcement officers, including Deputy Sheriffs, and Department Heads are expected to provide thirty (30) calendar days notice. The Administration Director will conduct exit interviews with classified employees leaving City service as far as practical. Information received during an exit interview will not be made a part of the employee's personnel file.

H. **Discharge**

Discharge is defined as an involuntary separation from employment initiated by the employing authority as a result of an employee's unsatisfactory work performance or misconduct.

I. **Reduction in the Work Force (Layoffs)**

From time to time various factors such as adverse economic conditions, City or department reorganization, lack of sufficient work, abolishment of positions, and other related incidents may result in the necessity to reduce

the work force of the City. The City Manager has the right and obligation to manage the work force to the best interest of the City and may require implementation of this reduction in work force procedure. Unless specific instructions are received from the City Manager, the following will serve as the general procedure for a reduction in work force for positions funded in part or in total by the City.

1. In that the City has provided procedures for the removal of employees for unsatisfactory performance and for disciplinary reasons, it will be assumed that all employees, unless otherwise noted, are serving in a satisfactory manner. Therefore, in order to provide for a uniform, fair, equitable, and effective base for the determination of layoffs, the length of continuous City service will provide the basis for determining the order of layoff. Extraordinary circumstances may cause other considerations to be the basis for determining order of layoff when approved by the City Manager.
2. In the event of reduction in the work force, it will be managed on an individual department basis. The Department Head, subject to approval by the City Manager or his designee, will have the responsibility for the identification of organizational sections, job classifications, positions, and individuals affected. Additionally, the Director of Administration in consultation with the Department Head will determine the order for layoff by classification. Once that order has been determined, if there is more than one person in this classification, the employee with the least amount of continuous City employment will be the first to be laid off.
3. In all cases where a reduction in the work force necessitates the actual removal of personnel, upon identifying classification(s) to be affected the following order of priority will be strictly adhered to within the specified classification unless a written exception is granted by the City Manager.
 - a. non-classified employees
 - b. probationary employees (employed less than six months)
 - c. classified part-time employees
 - d. classified full-time employees
4. Insofar as practical, all employees to be laid off will be provided with a minimum of two weeks written notice.
5. Affected employees will be given in any reinstatement or reemployment should a vacancy of the same classification within the same department in which they left occur. If more than one employee in one of the four priority categories in Section 3 has been laid off in a department, the employee with the longest continuous City service will have priority in

reinstatement or reemployment, unless the City Manager otherwise directs.

J. **Garnishment Procedures**

The Federal and State Wage Garnishment laws prohibit an employer from discharging any employee because earnings have been subjected to garnishment for any one indebtedness. (Section 34-29f of the Code of Virginia). The term "one indebtedness" means a single debt regardless of the number of levies made or the number of proceedings brought to collect it. The law does not prohibit discharge if there are garnishment proceedings pursuant to another debt. The garnishments may be from the same creditor, but they must involve separate debts.

In order to assist the employee, but also minimize the effects of the bookkeeping responsibilities required to process garnishments, the City of Winchester has established the following procedures for garnishments:

Step I: Oral counseling at time of first indebtedness.

Step II: Mandatory referral to the City's Employee Assistance Plan for second indebtedness.

Provided no garnishments are received within three (3) years from the receipt of the second garnishment, the employee's record shall be purged of all information relating to past garnishments.

K. **Career Development Program**

The purpose of the Career Development Program is to provide employees an opportunity for advancement in a career path. The City is committed to a policy that increases the prestige and performance level of employees who continue professional development efforts throughout their careers.

The Department Head may submit to the Administration Director and City Manager a career development proposal indicating the positions included in the program, the criteria for movement to each position and the administrative procedures for the program. The Administration Director and City Manager shall review the program for conformity and consistency with overall career development objectives, and recommend such plans meeting these objectives to Council for approval.

Advancement under an approved career development program shall be accompanied by an increase of 5% to the existing base salary or increase to the minimum of the new pay grade, whichever is greater.

Administrative changes to an approved career development program shall be submitted by the Department Head to the Administration Director for recommendations and approval by the City Manager.

The following programs and positions are hereby authorized:

1. Fire and Rescue Department:
 - a. Probationary Firefighter
 - b. Firefighter/EMT
 - c. Firefighter Technician

2. Juvenile Detention Center:
 - a. Detention Specialist I
 - b. Detention Specialist II
 - c. Senior Detention Specialist

3. Police Department:
 - a. Police Officer I
 - b. Police Officer II
 - c. Police Officer III
 - d. Master Police Officer

4. Sheriff:
 - a. Deputy Sheriff I
 - b. Deputy Sheriff II
 - c. Deputy Sheriff III

5. Social Services Department:
 - a. Benefit Programs Screener
 - b. Benefit Programs Worker I
 - c. Benefit Programs Worker II
 - d. Benefit Programs Worker III

 - a. Social Worker I
 - b. Social Worker II
 - c. Social Worker III

6. Utilities Department:
 - a. Water & Wastewater Treatment Plant Operator Trainee
 - b. Water & Wastewater Treatment Plant Operator I
 - c. Water & Wastewater Treatment Plant Operator II
 - d. Employees receiving the Commonwealth of Virginia Water or Wastewater Operators license at the Class II or Class I level shall receive a 5% increase to their existing base salary only.

 - a. Utility Service Mechanic I

- b. Utility Service Mechanic II
 - c. Senior Utility Service Mechanic
7. Financial:
- a. Account Clerk I
 - b. Account Clerk II
 - c. Account Clerk III
 - d. Delinquent Accounts Clerk
 - e. Senior Account Clerk
 - f. Accounting Analyst and Deputy Treasurer
8. Clerical:
- a. Clerk
 - b. Receptionist
 - c. Office Assistant
 - d. Secretary
 - e. Executive Secretary and Legal Secretary
 - f. Administrative Assistant I
 - g. Administrative Assistant II
9. Maintenance:
- a. Laborer and Custodian
 - b. Maintenance Technician I
 - c. Maintenance Technician II
 - d. Maintenance Technician III
 - e. Crew Leader

3.9 Overtime Pay and Compensatory Time

A. Purpose

To establish a policy for compensating employees for overtime hours worked. This regulation is intended to comply with all minimum requirements of the Fair Labor Standards Act (FLSA), as known to the City. Further, it is the policy of the City that any overtime work necessary to the continued effective operation of the City shall be managed in the most efficient and economical manner possible.

B. Authorization for Overtime

Overtime work shall be authorized only to cover emergencies, necessary seasonal activity, weather conditions, and unusual working requirements, and may be authorized only by Department Heads prior to such work being performed. It is the responsibility of each Department Head to determine that overtime pay is administered in the best interest of the City and to assure adequate funds are available for the payment of overtime. In

addition, it is equally important for the Department Head to control unauthorized overtime. Unauthorized work shall be counted as hours worked if the employer should have stopped it but did not, or if he knows or has reason to know of its practice. No employee shall start work before the appointed time, work through lunch or work past the appointed time without prior authorization from their Department Head and notification of the Director of Administration.

C. Categories of Jobs

Under the Fair Labor Standards Act, there are two basic categories of jobs:

- Exempt (E) - those employees not covered by the Act
- Non-exempt (N) - those employees covered by the Act

The exempt category consists of three subordinate categories which are applicable to the City's classified service:

- executive
- administrative
- professional

FLSA requirements apply to positions and employees qualifications -- not to classes. The City's class descriptions serve as a general guide in determining whether individual positions are exempt or non-exempt from the provisions of the FLSA. All City classes will be identified as exempt (E) or non-exempt (N), and this designation shall be placed in the City's Schematic List of Classes.

D. Eligibility for Overtime Pay and Compensatory Time

1. Department Heads on advice of the Administration Director shall establish a department overtime pay and compensatory time policy in accordance with these provisions and determine eligibility giving consideration to budgetary restrictions. Under special situations, an employee may be deemed eligible for overtime pay or compensatory time while identified as EXEMPT under the FLSA. Departmental policies shall be submitted to the City Manager for approval. No deviations from established policy may be made except through written request to and approval by the City Manager.
2. Employees identified as NON-EXEMPT from the provisions of the FLSA shall receive cash payment at time and one-half the employees regular rate of pay for all hours worked in excess of the limit established for the work period in Section 3.10E. **THE CITY MAY ELECT TO GRANT COMPENSATORY TIME IN LIEU OF CASH PAYMENT TO THIS**

CATEGORY OF EMPLOYEE AT THE RATE OF TIME AND ONE-HALF FOR EACH HOUR OF OVERTIME WORKED. Payment at the final salary rate shall be made to NON-EXEMPT employees on separation who have accrued compensatory time.

3. Time frames for use of compensatory time and maximum accrual amounts (compensatory time banks) shall be determined by the Department Head provided the employee does not accrue in excess of 40 hours.
4. Department Heads are not eligible for overtime pay or compensatory time.
5. No payment shall be made to EXEMPT employees for compensatory time on separation.

E. Establishment of the Work Period

1. Non Exempt Employees (excluding Sworn Law Enforcement Officers)

The work period for purposes of overtime eligibility and compliance with the Fair Labor Standards Act shall be seven (7) consecutive days commencing with 00:01 a.m. Saturday through midnight Friday. This seven day work period will correspond to the reporting period on the employee's time and attendance sheets. Overtime pay or compensatory time for non-exempt employees must be given for all hours in excess of 40 hours in a seven day work period. However, Department Heads are required, to the extent possible, to reduce or eliminate overtime hours worked within the work period in which they are earned. Overtime pay must always be calculated on the basis of a seven day work period, and may never be averaged over a two week pay period.

2. Non Exempt Sworn Law Enforcement Officers

In accordance with the partial overtime exemption provided in the Fair Labor Standards Act, Title 29, Chapter V, Section 553.4, the work period for non-exempt sworn law enforcement officers for purposes of overtime eligibility shall be fourteen (14) consecutive days commencing with 00:01 a.m. Saturday through midnight Friday two weeks hence. This fourteen day work period will correspond to the reporting period on the employee's time and attendance sheets. Overtime pay or compensatory time for non-exempt employees must be given for all hours in excess of 80 hours in a fourteen day work period. However, the Department Head is required, to the extent possible, to reduce or eliminate overtime hours worked within the work period in which they

are earned. Overtime pay must always be calculated on the basis of a fourteen day work period.

F. **Overtime Pay Calculation**

Overtime pay is calculated by multiplying the "regular rate" of pay by a factor of time and one-half. The regular rate of pay is defined as the rate per hour paid for normal non-overtime work and is determined by dividing total compensation for the work period by the number of hours in the employee's regular work period.

G. **Definition of Hours Worked**

All time during which an employee is required or permitted to be on the employer's premises on duty or at a prescribed work place, except for meals or other periods when he is free from duty, is considered as hours worked. Payment for annual leave, holidays, and compensatory time shall also be counted as hours worked for the purposes of calculating overtime. Payments made for other periods during which no work is performed including sick leave, military leave, civil leave, injury leave, funeral leave and on call/ standby are not included in hours worked for calculating overtime eligibility. For NON-EXEMPT uniformed Fire and Rescue personnel, hours worked include all hours of pay.

To assist departments in defining hours worked under the provisions of FLSA, the following definitions apply:

1. **Meals**

A bona fide meal period is a span of at least 30 consecutive minutes (never less) during which an employee is relieved of duty and free to use the time for his own purposes. It is not counted as hours worked or paid time. Any "meal period" of less than 30 consecutive minutes must be paid as hours worked.

It is not necessary that an employee be permitted to leave the premises during the meal period. However, the time will have to be counted as time worked if the employee is required or permitted to perform any duties while eating.

2. **Training**

Time spent attending classes after hours required by the City to maintain the job must be defined as hours worked.

3. Travel

Time spent on away from home travel outside of regular work hours for required City business may be considered work time. Department Heads on advice of the Administration Director shall determine when travel counts as hours worked. Normal travel from home to work and work to home is not work time.

4. Sleep Time

- a. Duty of less than 24 hours: Under certain conditions an employee is considered to be working even though some of his time is spent in sleeping or in certain other activities. Thus, an employee who is required to be on duty for less than 24 hours is working even though the employee is permitted to sleep or engage in other personal activities when not busy. It makes no difference if the employee is furnished facilities for sleeping.
- b. Duty of 24 hours or more: Where an employee is required to be on duty for 24 hours or more, the employer and the employee may agree to exclude bona fide meal periods and a bona fide regularly scheduled sleeping period of not more than 8 hours from hours worked, provided adequate sleeping facilities are furnished by the employer and the employee can usually enjoy an uninterrupted night's sleep. If the sleeping period is of more than eight hours, only eight hours will be credited. Where no expressed or implied agreement to the contrary is present, the eight hours' sleeping time and lunch periods constitute hours worked.

If the sleeping period is interrupted by a call to duty, the interruption must be counted as hours worked. If the period is interrupted to such an extent that the employee cannot get a reasonable night's sleep, the entire period must be counted. For enforcement purposes, the Wage and Hour Division of the Department of Labor has adopted the rule that if the employee cannot get at least five hours' sleep during the scheduled period the entire time is working time.

H. Time of Payment

There is no requirement under FLSA that overtime compensation be paid weekly. The general rule is that overtime pay earned in a particular work week must be paid on the regular pay day for the period in which the work week ends. If the correct amount of overtime pay cannot be determined until some time after the regular pay period, the City shall pay the overtime compensation as soon after the regular pay period as practicable. Payment

shall not be delayed for a period longer than is reasonably necessary for the City to compute and arrange for payment and in no event shall payment be delayed beyond the next pay day after such computation can be made.

I. **Volunteers**

1. **Non-Employee Volunteers**

Individuals who volunteer or donate their services, usually on a part-time basis for public service, religious or humanitarian objectives are not considered employees of the City even if they receive a nominal fee or are reimbursed for expenses.

2. **Employee Volunteers**

An employee may perform volunteer services for the City as long as the services are not the same type of services as the person is employed to perform. If, while off-duty, an employee performs the duties of his position, the time he puts in shall be considered "hours worked" for the purposes of calculating overtime pay. An employee who believes he is entitled to overtime pay shall submit a claim to the supervisor within fifteen (15) working days of the event. Nothing herein shall prohibit an employee from serving as a member of a volunteer organization provided this service does not conflict with employment requirements.

J. **Secondary Employment**

The City shall not permit an employee who is already employed with the City in a full-time capacity to accept a secondary job with the City except with the prior authorization of the City Manager.

K. **Shift Trading**

An employee may trade shifts with another employee only with the prior approval of the supervisor. The hours worked as a substitute may be excluded by the department in the calculation of the hours for overtime compensation when traded in the same work week.

L. **Recordkeeping Requirements**

Each department must keep attendance records of regular and overtime hours worked and leave usage for all non-exempt employees. Time sheets provide adequate documentation. The actual hours worked must be recorded and the completed forms submitted to the Finance Department the Monday of pay week. All employee time and attendance records, leave

usage reports and payroll records must be kept for three years, and are maintained in the Administration Department.

3.10 On Call Pay (Standby)

On call pay is compensation for eligible employees who are required to be available when needed to handle emergency situations occurring outside of standard working hours.

- A. When conditions warrant, the Department Head will schedule sufficient manpower to work outside of standard working hours.
- B. An employee who is required to remain on the City's premises or so close thereto that he cannot use the time effectively for his own purposes is working. An employee who is not required to remain on the City's premises but is required to leave word at his home or with officials where he may be reached is "on call".
- C. In most cases, employees will be guaranteed a department defined minimum of straight time compensation per day while on call which is not applied towards the normal work week.
- D. When an employee is called back to work after hours, he will receive credit for the actual time worked or two hours time, whichever is greater, beginning at the time he reports to work. Hours worked on call back apply to the normal work week.
- E. IF AN EMPLOYEE ON CALL IS NOT AVAILABLE OR CANNOT BE REACHED, HE WILL NOT BE ENTITLED TO ON CALL PAY AND MAY BE SUBJECT TO THE CITY'S DISCIPLINARY POLICY.

3.11 Pay for Serving in Acting Capacity

Whenever a classified employee is required to work in the capacity of a higher-level supervisory position, such employee may be paid additionally for assuming the higher-level duties. Such assumption of duties must be approved by the Department Head. The amount of remuneration shall be determined by the City Manager, giving consideration to budgetary restrictions. Requests for "acting pay" shall be made in writing to the City Manager who shall provide the review and necessary processing, if appropriate.

AFFIRMATIVE ACTION PLAN AND RECRUITMENT AND SELECTION PROCESS

4.1 Equal Employment Opportunity

It is the policy of the City to obtain the best-qualified applicants available for each vacancy as it occurs, without regard to race, color, religion, national origin, political affiliation, disability, gender, age, or other non-merit, non-job-related factors. The City's Affirmative Action Plan, adopted by the City Council on November 10, 1981, is hereby made a part of the Comprehensive Employee Management System. (See Appendix G).

4.2 Affirmative Action Policy Statement

The City of Winchester is an Equal Opportunity Employer. It is committed to the maintenance and promotion of the policy of non-discrimination by incorporating sound merit principles in all aspects of personnel management affecting its employees and applicants. Personnel management within the City shall be implemented free from such prohibited personnel practices as discrimination, religious and sexual harassment, or any other conduct inconsistent with sound merit principles. It shall provide equal employment opportunity to all employees in the competitive service of the City and all applicants for such service on the basis of fitness and job-related qualifications without regard to race, color, religion, national origin, political affiliation, disability, gender or age (except where such constitute a bona fide occupational qualification). The City will undertake a program of affirmative action to make widely known that equal employment opportunities are available on the basis of merit and to actively encourage all persons to seek employment and to strive for advancement on this basis.

The adoption of this plan by the City Council is a reaffirmation of adherence to and promotion of the policy of non-discrimination/harassment. The guidelines and objectives contained in this plan are designed to assist the City and its employees to adhere to the policy.

All employees have a responsibility to address discriminatory and/or harassing behavior observed on the job directly with the offending employee. Should the behavior continue, employees are not only encouraged to report discrimination or harassment, they are legally obligated to do so. Any person employed by the City of Winchester who fails to comply with this policy is subject to the City disciplinary procedures.

4.3 Hiring and Promotion Practices

The Administration Department has the primary responsibility for centralized recruitment. All tests and selection devices used in making a selection shall be approved by the Administration Department. No person shall be hired or promoted into

a position unless the department request is reviewed by the City Manager to determine that this is a needed position that is properly funded and classified.

4.4 Recruitment

- A. The Administration Department shall conduct internal and external recruitment efforts through the use of vacancy lists and media.
- B. Testing for certain classes of positions shall be conducted by the Administration Department. Once a sufficient number of applications are received, they shall be screened for minimum qualifications by departmental supervisory personnel and Administration Department staff.

4.5 Selection

Interviews are conducted by Administration and Departmental staff.

- B. Reference checks shall be conducted by the Administration Department on those applicants being seriously considered by the Department Head for the vacant position. The Administration Director may authorize the Department Head to conduct additional background investigations, but these results must be submitted to the Administration Director for review.
- C. The Department Head shall notify the Administration Department of the preferred applicant.
- D. In all cases, the offer of employment and discussion of beginning salary, benefits, and starting date will be handled by the Administration Department once approved by the City Manager. Any exception to this shall be approved in advance by the City Manager.

4.6 Orientation of New Employees

An orientation training program will be conducted by the Administration Department with each new City employee during the first weeks of employment. The personnel policies and procedures, work requirements and benefits will be discussed with the employee. In addition, a copy of the Comprehensive Employee Management System will be signed over to the employee and an acknowledgement form completed. Each department shall be responsible for conducting on-the-job training programs to orient the new employee to the duties of the job and departmental policies.

4.7 Training

Classified employees are provided the opportunity to attend numerous City-sponsored training workshops. The Administration Department prepares and distributes the Annual Training Calendar of courses. Mandatory training programs include: Ethics,

Valuing Diversity, Quality Customer Service, Preventing Workplace Violence, Safety Manual, Environmental Management System, FISH, Spanish, Understanding Sexual Harassment, and Orientation. Other programs may be required depending on the position classification. Failure to attend mandatory training programs may result in disciplinary action and/or withholding of raise. Employees should contact their supervisor or the Administration Department for more information or to register for a training class.

4.8 Employment of Relatives

It is the policy of the City not to employ a member of the immediate family nor relatives living in the same household in a supervisory or administrative relationship.

4.9 Job Sharing

There may be instances where a Department Head recognizes the necessity to fill one classified full-time position with more than one classified part-time employee such that the total hours worked do not exceed the hours authorized for that position, and the total cost for the job sharing does not exceed the total cost for one full-time employee. Where this is allowable, such an arrangement in work schedules must first accomplish the City's needs and not only the employee's desires. Department Heads shall request in writing approval from the City Manager for any job sharing arrangements.

4.10 Flexible Workplace Program Policy

A. Purpose

The Flexible Workplace Program Policy is designed to retain a City employee through allowing him to continue work from a mutually agreeable alternate worksite.

B. Definition

The Flexible Workplace Program Policy allows employees the flexibility to perform their regular work assignments either at home or at an alternate worksite away from the main office for all or part of the work week.

C. Eligibility

All full or part-time classified employees are eligible to participate in the Flexible Workplace Program. The employee must have satisfactory work performance and Department Head, Administration Director, and City Manager approval for participation. In addition, the employee must sign a Flexible Workplace Participation Agreement (See Appendix H) agreeing to

abide by the regulations as set forth in this policy. The agreement will be maintained in the employee's official personnel file.

D. Termination/Removal from Program

Employees may request removal from participation in the Program at any time. The Department Head and City Manager retain the right to remove the employee from the Program if his performance declines, if his participation in the Program fails to benefit organizational needs, if procedures specified in Section E are not followed, or for any other reason deemed to be in the best interest of the City. A complaint regarding removal may not be pursued through the City's grievance procedure as this is a management right.

E. Work Assignments and Evaluation

The employee will meet with his supervisor to receive assignments and to review completed work as necessary. Employees will complete all assigned work according to work procedures mutually agreed upon by the employee and the supervisor. Employees and supervisors will develop performance plans which contain performance standards covering work to be completed at the office as well as at home. Performance evaluations shall be conducted in accordance with established policy.

F. Work Schedule and Attendance

Work schedules will be established by agreement of the employee and the Department Head and approved by the City Manager. All policies regarding time records, leave, and overtime will continue to apply. Supervisor approval must be obtained prior to taking leave in accordance with established policy. Overtime for nonexempt employees must be approved in advance by the employee's supervisor. Failure to obtain proper approval regarding work hours may result in removal from the Program and may also result in disciplinary action.

When the alternative worksite is in the home, supervisors may make periodic inspections of the employee's home worksite during the employee's normal working hours to ensure proper maintenance of City-owned property and worksite conformance with safety standards and other specifications.

G. Equipment, Property, and Liability

The City Manager or his designee shall approve the use of City equipment and/or property by an employee at an alternate worksite subject to availability.

The employee assumes full responsibility for reasonable care of any equipment on loan from the City. This equipment will be serviced and maintained by the City. If the employee owns the equipment, he is responsible for servicing and maintaining it.

The City will not be liable for damages to an employee's personal or real property during the course of performance of official duties or while using City equipment in the employee's alternate worksite. The City will not be responsible for operating costs, home maintenance, or any other incidental costs (e.g., utilities) whatsoever, associated with the use of the employee's residence as the alternate worksite.

By participating in this program, the employee does not relinquish any entitlement to reimbursement for authorized expenses incurred while conducting business for the City as provided for by City regulations.

The employee is normally covered under Workers' Compensation if injured in the course of performing official duties at the official primary worksite or an alternate worksite in accordance with the Virginia Workers' Compensation Act.

H. **Security**

Where applicable, the employee will apply approved safeguards to protect City and/or work-related records from unauthorized disclosure or damage and will comply with the Privacy Act requirements set forth in the respective federal and state legislation.

HOURS OF WORK AND LEAVES OF ABSENCES

5.1 Hours of Work and Attendance

- A. The City Manager establishes the hours of work. The City of Winchester is open to provide services to the public under the following standard hours of operation:
 - 1. Rouss City Hall phones are answered from 8:00 a.m. to 5:00 p.m. on regular workdays.
 - 2. The business hours for City offices shall be 8:00 a.m. to 5:00 p.m.
 - 3. Most full-time employees shall work a forty (40) hour work week which is usually 8:00 a.m. to 5:00 p.m. with a one (1) hour lunch break. When individual work schedules differ from this, compensation will be made on a proportionate basis.
- B. Where departments' normal services require work schedules other than listed above, work schedules will be established by the Department Head with the approval of the City Manager.
- C. Hours of work, schedules and duty assignments may be altered as conditions warrant under authorization of the City Manager.

5.2 Annual Leave

Most classified employees of the City of Winchester shall earn annual leave by the City as follows:

- a. Eight work hours per month for each month employed (96 work hours each year) to the fifth year of employment. Maximum accumulation limited to 192 work hours.
- b. Ten work hours per month for each month employed beginning the fifth year to the tenth year of employment (120 work hours each year). Maximum accumulation limited to 240 work hours.
- c. Twelve hours per month for each month employed beginning the tenth year to the twentieth year of employment (144 work hours each year). Maximum accumulation limited to 288 work hours.
- d. Fourteen hours per month for each month employed beginning with the twentieth year of employment (168 work hours each year). Maximum accumulation limited to 336 hours.

Maximum accrual of annual leave shall not exceed the maximum accumulation limit at the end of any calendar year or at the date of the employee's separation.

The regular schedule of some employees exceeds forty (40) hours per week. When employees are authorized to work more than 40 hours on their normal work schedule, then they earn leave on a prorated basis. Classified employees whose normal work week schedule is less than 40 hours may earn leave in proportion to scheduled hours.

Annual leave will be granted in a manner mutually agreeable to the employee and the employee's supervisor or Department Head. Annual leave shall be arranged to meet work requirements. (See Appendix I for Leave Usage Form.)

An employee cannot utilize any accrued sick leave during a vacation.

An employee will be paid for vacation days earned but not taken, when leaving the City employment. An employee will not be allowed to use vacation days after submitting the notice of resignation, except in unusual circumstances which shall be approved by the City Manager upon recommendation of the Department Head.

5.3 Sick Leave

Sick leave benefits are a privilege granted by the City to every classified employee. Sick leave is not earned in the sense that it must be taken. It is accrued and is available when justified. Sick leave benefits shall be granted for the following reasons:

- A. Absence of Employee Due to Personal Illness and Doctor Appointments - illness or injury incapacitating the employee to perform assigned duties; doctor or dental appointments during working hours; and exposure to contagious disease such that the employee's presence on duty would jeopardize the health of fellow workers on the job.
- B. Light Duty Return-to-Work Policy

No employee is to be returned to work following an off-duty illness, injury or surgery until the attending physician has released the employee to full duty. The City, however, will make available to an employee who has a non-contagious condition an offer to perform work in a light duty capacity where there is a legitimate business necessity and where the attending physician has given written authorization to return to light duty work. The employee will be paid at an hourly rate classified for the light duty work. The employee may choose to use available sick leave to supplement any salary difference. Any return to light duty must be on recommendation of the

Department Head to the Administration Director with final approval of the City Manager.

- C. Absence of Employee Due to Illness or Injury in Immediate Family - illness or injury in the immediate family requiring the attendance of the employee. Immediate family is defined as an employee's spouse, children, parents, or other relatives living in the household.

In accordance with the City's established FMLA policy, FMLA runs concurrent with sick leave and begins following the third day of leave.

Sick leave benefits will accrue at the rate of eight (8) hours per month of service. The regular schedule of some employees exceeds 40 hours per week. When employees are authorized to work more than 40 hours on their normal work schedule, they earn leave on a prorated basis. Classified employees whose normal work week schedule is less than 40 hours shall earn leave in proportion to scheduled hours. Accumulation of sick leave benefits will be unlimited. Payment of sick leave benefits will be at a rate equivalent to that payable if the employee was present for work.

In case of illness, an employee (or representative) will notify his Department Head or immediate supervisor as soon as reasonably possible. Failure to notify supervisor in a reasonable period of time is cause for disciplinary action. Abuse of sick leave may result in an employee's immediate discharge from the City.

The employee may be required to furnish the Department Head and the Administration Department with a written statement from the physician. This statement shall include:

- B. the nature of the employee's condition,
- C. the expected date on which the employee will be able to return and perform full, unrestricted work duties as described in the job description for the position, and
- D. the approximate anticipated date of medical release by the physician.

If the Administration Department determines that sick leave benefits cannot be granted to an employee, then the absence will be controlled by the guidelines for other leave categories (i.e., annual leave, leave without pay, etc.). Absence due to job related injury will be recorded as workers compensation as defined in the injury leave policy.

Classified employees who have five or more continuous years of employed service with the City shall be paid 25% of the accumulated sick leave balance at the time of termination or retirement. The amount paid shall not exceed \$5,000.00 for any one employee.

5.4 Family and Medical Leave Act

The Family and Medical Leave Act (FMLA), effective August 5, 1993, provides employees with unpaid family and medical leave as the result of the birth, adoption or placement of a child for foster care, to care for a spouse, child or parent with a serious health condition or due to the disabling illness of the employee. This policy is intended to supplement but not replace the provisions of the FMLA. Reference should be made to the Act for any requirements or provisions not set out in this section.

A. Eligibility

To be eligible for FMLA leave, an employee must have been employed by the City for at least twelve (12) months, and have provided at least 1,250 hours of service during the twelve (12) months before leave is requested. An eligible employee is entitled to a total of twelve (12) work weeks of FMLA leave during the rolling twelve (12) month period from the date the first FMLA begins for one or more of the following:

1. Because of the birth of a child of the employee and in order to care for such child.
2. Because of the placement of a child with the employee for adoption or foster care.
3. In order to care for the spouse, child or parent of the employee having a serious health condition.
4. Because of a serious health condition that makes the employee unable to perform the functions of his position.
5. Because of a spouse, son, daughter, or parent being on active duty or having been notified of an impending call or order to active duty in the Armed Forces.

An eligible employee is entitled to twenty-six (26) weeks of FMLA leave during a single twelve (12) month period for the following:

1. Because of a spouse, son, daughter, parent, or nearest blood relative caring for a recovering service member.

FMLA leave may be taken for birth or placement of a child only within twelve (12) months of that birth or placement. FMLA leave may begin before the actual date of birth of a child, if the expectant mother's condition makes her unable to work.

In any case in which the City employs a husband and wife, the aggregate number of work weeks of leave to which both may be entitled shall be limited to twelve (12) work weeks during the above defined twelve (12) month period, if such leave is taken under Section 5.4(A)(1) or (2) or (3).

B. Definitions

1. Child is defined as a biological, adopted or foster child, a step-child, a legal ward, or a child for whom the employee is "in loco parentis", who is under eighteen (18) years of age, or if eighteen (18) years of age or older is incapable of self-care because of mental or physical disability.
2. Parent is defined as the biological parent of an employee, or an individual who stood "in loco parentis" to an employee when the employee was a child. This term does not include parents "in law".
3. Spouse is defined as husband or wife.
4. Serious health condition means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility, or continuing treatment by a health care provider.
5. A recovering service member is defined as a member of the Armed Forces who suffered an injury or illness while on active duty that may render the person unable to perform the duties of the member's office, grade, rank, or rating.

C. FMLA Leave Usage

1. FMLA leave shall be taken as leave without pay. The use of annual leave, sick leave, injury leave, compensatory time and floater day balances must run concurrently with FMLA. An employee must provide thirty (30) days advance written notice before the date on which the leave would begin in any case where the necessity for the leave is foreseeable. (See Appendix J).
2. FMLA leave may be taken intermittently or on a reduced schedule if medically necessary. FMLA leave on an intermittent or reduced schedule may not be taken for the birth, adoption or receipt into foster care of a child. If FMLA leave is taken intermittently, an employee may be required to transfer temporarily to an alternative position, with equivalent pay and benefits that better accommodates recurring periods of leave than the employee's regular position.

3. If FMLA leave is foreseeable based on planned medical treatment, the employee shall make a reasonable effort to schedule treatment so as not to disrupt unduly the operations of the workplace.

D. Recordkeeping Requirements

1. Requests for FMLA leave must be submitted to the Department Head in writing along with required doctor's certification (See Appendix J) outlining the nature of the request. The Department Head will forward the request to the Administration Director for review and approval by the City Manager. The decision of the City will be documented on the Employer Response to Employee Request for FMLA form (See Appendix J).
2. FMLA leave requests shall be for a period of not less than one (1) hour increments, and additional increments shall be in not less than one (1) hour.
3. The employee must provide doctor's certification of a serious health condition for himself or spouse, parent or child. When necessary, the City shall provide the doctor with the Certification of Health Care Provider form for completion (See Appendix J). Certification is to include the date on which the serious health condition began; the probable duration of the condition; appropriate medical facts regarding the condition; a statement that the employee is needed to care for a spouse, parent or child, and an estimate of the time required, or that the employee is unable to perform the job functions, and in the case of intermittent leave, the dates and duration of treatments to be given.
4. An employee may be required to submit to a medical evaluation for a second opinion at the City's expense. In the event of conflicting opinions, the employer may pay for a third and final provider to offer a binding decision.
5. The employee may be required to provide subsequent "recertification" on a reasonable basis.
6. An employee returning to work from FMLA leave due to his own serious health condition is required to present to the Department Head and the Administration Department a statement from the attending physician certifying his ability to return to full, unrestricted duty as described in the job description for the position.

E. Status of Benefits

1. An employee who completes a period of FMLA leave will be returned to the same or an equivalent position.

2. FMLA leave will not result in the loss of any previously acquired benefits, however, FMLA leave time will not be credited towards any future benefits.
3. The employee may elect to continue participation in the City's group health benefit program during the employee's FMLA leave status. The employer is responsible for paying the employee's portion of the premium. If an employee does not return to work following the expiration of FMLA leave, the City shall take action to recover any unpaid employee premiums, as well as the City's contributions to premiums. Exceptions to this include the employee's failure to return to work due to the continuation, recurrence, or onset of a serious health condition or, other circumstances beyond the control of the employee.

5.5 Sick Leave Bank

A. Purpose

The Sick Leave Bank is designed for extenuating health circumstances where an employee does not have adequate leave to meet the medical need without adversely impacting his income. It is designed to help co-workers and their families during financial hardship brought about by serious and unforeseen illness of significant duration or other unforeseen tragic family event. The program is not intended to assist employees with routine medical problems, elective procedures, or predictable medical events (such as the normal six-week recovery period following childbirth). If an employee qualifies for worker's compensation, they may not draw from the bank.

B. Eligibility for Membership

All full and part-time classified employees may elect to participate in the Sick Leave Bank. The employee must be employed for six consecutive months. New employees may enroll after this six-month period. Current employees who opted not to join at onset of Sick Leave Bank may elect to enroll during WinFlex open enrollment. Enrollment may be denied based on the employee's past attendance record. All employees participating in the Sick Leave Bank are required to certify that they are covered by a health insurance plan.

Upon termination of employment, withdrawal of membership from the bank or termination of the bank, participating employees will not be permitted to withdraw their contributed days nor will they be reimbursed for any days in the bank.

C. Enrollment and Deposits

An employee must file a completed Application for Sick Leave Bank Membership (See Appendix K) with the Administration Department. The application will be forwarded to the City Manager for consideration. The Administration Department will notify the employee of his acceptance or denial within ten days of application.

Deposits are defined as an initial contribution of two times an employee's monthly sick leave accrual rate and, when deemed necessary, annually thereafter at one times the monthly sick leave accrual rate.

A special assessment from each participating employee may apply if the bank balance falls below 240 hours. At that time, members will have the option to cancel their membership. Any member drawing leave from the bank will be exempted from the assessment at that time, but are required to deposit the assessment when next available. The special assessment must produce a minimum deposit of 720 hours or the bank will cease to exist.

D. Eligibility for Benefits

Prior to withdrawal, the member must use up all sick leave and 50% of remaining available leave balances excluding floater time not yet truly earned.

Eligible members may draw up to 240 hours (approximately six working weeks) during a twelve-month period. A twelve (12) month period is defined as the consecutive twelve month period measured forward from the date the first sick leave bank usage begins. Upon exhaustion of eligible benefits, an employee will cease to have access to the sick leave bank and will not be eligible in the future.

E. Bank Withdrawals

The employee must make application for the benefit; it is not automatic. An employee drawing sick leave from the bank will not be expected to replace it. An employee will not accrue leave of any type including pay for holidays while drawing days from the Sick Leave Bank.

An employee must file a completed Application for Use of Sick Leave Bank (See Appendix K) with the Administration Department. The Physician's Statement must be attached to this application. The application will be forwarded to the City Manager for consideration. The Administration Department will notify the employee of his acceptance or denial within ten days of application.

Participation in the Sick Leave Bank shall run concurrently with Family Medical Leave. If an employee is receiving short-term disability while using the sick leave bank, the employee shall only draw the amount of time from the

sick leave bank to bring his total compensation to equal his regular salary. No benefits shall be paid from the Sick Leave Bank for a work-related injury or for a sickness for which an employee is entitled to worker's compensation.

F. Appeals and Emergency Applications

If an Application for Sick Leave Bank Membership or for Use of Sick Leave Bank benefits is denied, a formal appeal may be made in writing and within five working days. The City Manager will conduct a hearing and give his final decision within ten working days of the receipt of appeal.

For those medical emergencies when a City employee does not meet the minimum requirements, or needs an additional withdrawal after exhausting the terms of this policy, the City of Winchester provides for an emergency application process. Emergency applications are to be made in writing to the City Manager and copied to the Benefits Committee. The City Manager and the Benefits Committee will determine the disposition of the emergency application based on the conditions of the individual case and the merit of the individual appeal.

5.6 Crediting and Debiting Annual and Sick Leave

Annual and sick leave cannot be taken in the same month in which it is earned. For a month in which an employee is paid less than the full standard hours, including paid leave, leave shall be credited in the proportion that the number of hours paid has to the number of full standard hours in the pay period. Leave may be credited and debited in 15 minute increments.

5.7 Funeral Leave

Funeral leave is a leave with pay granted to classified employees only upon the death of a close family member. Close family member is defined as an employee's spouse, parent, spouse's parent, son, daughter, brother, sister, grandparents, grandchild, stepchildren, stepparents, guardian, and any persons residing in the same household as the employee.

Funeral leave shall be granted by the Department Head and approved by the Director of Administration if requested by the employee for a period not to exceed three (3) consecutive days. These days may be prior or subsequent to the day of burial but must include the day of burial. This leave shall commence upon notification and approval by the Director of Administration. In the event of multiple deaths in the employee's immediate family each death shall be treated separately and the funeral leave shall be granted accordingly.

If more than the allotted number of days leave is required, or if leave is desired for a death other than family, as defined above, other leave available to the employee may be used. Funeral leave is not authorized for non-workdays.

5.8 Injury Leave

Leave may be granted to protect an employee when he has sustained an injury arising out of or in the course of the performance of his job. For purposes of this policy, the City will adhere to all applicable laws governed by the Virginia Workers' Compensation Commission and policies set forth by the Virginia Municipal Group Self Insurance Association (VMGSA).

An employee sustaining injury or illness as a result of on-the-job work or activity, which injury or illness is formally compensable under the Worker's Compensation Act, may be granted injury leave. Injury leave, as certified by the treating physician chosen from the approved panel of Physicians, is ordinarily approved for length of time necessary to enable the employee to return to work following an on-the-job accident. If an employee does not return to work upon expiration of his approved leave period, the supervisor or Department Head may, after investigating the circumstances and conferring with the Director of Administration, and upon notification to the employee, charge such absence to annual leave or take disciplinary action. The burden of proof shall be upon the employee to establish that additional injury leave is justified.

Employees out of work due to a compensable on-the-job injury or illness will be allowed to use leave of absence without pay or sick or annual leave for the first seven days of lost time (Day 1 through Day 7). VMGSA begins workers compensation insurance payments to the affected employee on Day 8 of lost time. On Day 22, if the employee remains out of work with a compensable on-the-job injury or illness, VMGSA's check will include monetary reimbursement to the employee for Day 1 through Day 7. The City will not reinstate any leave of absence time without pay or sick or annual leave for Days 1 through 7 of lost time.

Employees will keep, sign, and cash all VMGSA workers' compensation checks which are based on 66 2/3% of their average weekly wages. These checks are not subject to taxes and will be approximately equal to an employee's average weekly net pay. These wages will be the only source of income for the employee while engaged in a compensable worker's compensation claim.

5.9 Civil Leave

An employee's absence from work for jury duty, summons or subpoena to appear as a witness shall be defined as civil leave. Defendants in a criminal case are excluded in accordance to Virginia Code Section 18.2-465.1

Civil leave shall be granted by the City Manager. Before this leave is granted, the employee must submit a copy of the official summons for jury duty to the Department Head or supervisor prior to the beginning date of such service.

An employee having been granted civil leave shall be compensated at the regular rate of pay during court appearances. Any compensation for jury duty may also be retained by the employee.

Employees summoned by a court for the purpose of qualifying for jury duty are entitled to civil leave for the actual period of absence, whether or not they are selected to serve. If the employee's presence is required for less than a full workday, the employee is required to contact his department concerning return to work.

5.10 Blood Donation Leave

Employees are allowed time off with pay without charge against leave balances while donating blood. Only reasonable time is allowed and must be approved by an employee's supervisor.

5.11 Leave Without Pay

An employee may be granted for reasonable cause, leave of absence without pay, for a specified period of time, at the discretion of the employee's Department Head and the City Manager. A request for leave of absence without pay and approvals or denials thereto shall be in writing. Approval will be based on the needs of the City at the time of the request. The employee must exhaust accrued annual and compensatory leave before the leave of absence without pay begins.

Vacation and sick leave shall not be earned or credited during such leave of absence without pay; however, prior earned, credited and/or accumulated sick leave shall be reserved for the employee and become effective upon the employee's return to service.

Health and group life insurances may be continued by payment of the premiums by the employee for a limited period of time through their COBRA benefit (See Section 6.13 for additional information), but all other benefits shall not accrue during the period of leave without pay, but shall be reinstated upon return.

An employee failing to return from leave of absence without pay at the agreed return date, unless extenuating and approved circumstances prevent such return, may be subject to immediate termination.

5.12 Absence Without Leave

Absence without leave shall be defined as an absence from the job during a scheduled work period without approval of the employee's supervisor or Department

Head. Also the failure to report to work at the expiration of an authorized leave or to request an extension of time shall be considered an absence without leave. An unauthorized absence from duty during required hours of attendance shall be treated as an absence without pay. Where there are not adequate reasons for the failure to secure authorization prior to the absence, the employee shall be subject to disciplinary action as may be determined by the Department Head subject to the provisions governing discipline set forth herein. An employee who is absent without authorized leave three consecutive working days shall be deemed to have abandoned his position and to have resigned unless he shall, within a period of ten working days next succeeding the three days, prove to the satisfaction of the Department Head such failure was excusable; however, nothing contained in this section shall be construed as preventing the Department Head from recommending to the City Manager suspension or dismissal of an employee because of unauthorized absence.

5.13 Military Leave

Any classified employee who qualifies under the terms of Section 44-93 of the Code of Virginia (1950), as amended, shall be granted a leave of absence without loss of accumulated leave or regular salary for federally funded military training duty or when called to duty by the Governor of Virginia as a member of the National Guard or any reserve component of the armed forces. A Department Head shall pay a period not exceeding 15 work days in a federal fiscal year (October 1 – September 30) for such leaves of absence. The employee shall present to the Department Head a copy of the orders prior to the effective day of leave. A copy of the orders shall be forwarded to the Administration Department for inclusion in the official personnel file.

A full-time classified employee who leaves his job for the purpose of entering the armed forces of the United States will be granted military leave without pay for the duration of active military service not to exceed five (5) years provided the employee requests the leave, submits to the Department Head copies of the orders, and provided this is his initial active duty as shown on the orders.

Within ninety (90) days after release from active duty, provided the employee can provide proof of satisfactory completion of initial active duty, the employee shall be entitled to reinstatement in the former position provided the employee is capable of performing the duties. If the former position has been abolished, the employee shall be given first consideration for other vacancies for which the employee is qualified.

For purposes of this section, a work day is defined as the number of hours of the employee's normal work day, up to 12 hours. Fire and Rescue Department employees working 24-hour shifts shall be entitled to 180 hours, or 7.5 24-hour shifts of compensated Military Leave.

5.14 Inclement Weather

In the event of existing or anticipated inclement weather, it is the intention of the City to maintain City operations to the extent that prudence and safety will allow. Employees are expected to make a reasonable effort to conform to established work schedules. When employees arrive at work late because of general transportation difficulties, the period of absence, if determined to be reasonable by an employee's Department Head and approval by the City Manager, may be excused. However, if City offices are operative, employees who do not report to work at all will be charged annual leave, if available, for the full period of absence. If no annual leave is available, the day missed will be charged to approved leave without pay. If an employee misses a workday due to bad weather and the office is subsequently closed early he will still be charged with a full absence. Should inclement weather cause early closing of offices, the effect will be the same as if the normal workday ended. Classified employees who reported for work will be paid a full day.

The City Manager will determine when weather conditions justify curtailing or adjusting work schedules. Department Heads will maintain normal work schedules unless authorized to alter such schedules by the City Manager. Employees absent due to an authorized closing for an entire workday will be paid for such absence. To qualify for payment, employees must work the scheduled workday before and after the closing, or work either of such days and be on approved leave with or without pay for the other day. Employees not qualifying may apply annual leave, if available, to the day of closing.

Employees identified by Department Heads as being required to work during authorized closings shall be referred to as "essential personnel". Essential personnel shall be credited with compensatory leave or paid for straight time plus time for actual hours worked during authorized closings. Essential personnel required to work in excess of the hours in their normally scheduled shift shall be paid according to established departmental overtime policies.

BENEFITS PLAN

6.1 Benefit Waiting Period

During the initial thirty days of employment or until the beginning of the month following the employee's date of eligibility, new employees will serve a benefit waiting period for certain benefits. This period may be waived or reduced by the City Manager. In addition, credit towards this period is given on a day for day basis to a non-classified temporary employee working in a full-time capacity for the City with no more than thirty (30) calendar day break in service regardless of the position. New employees moving from a Virginia Retirement System covered position to the City's position shall be enrolled in the retirement program immediately so no break in service occurs.

6.2 Holidays and Floater Days

The City shall observe the following holidays and other such holidays as may be prescribed by the City Council:

- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- day after Thanksgiving
- Christmas Eve
- Christmas Day

In addition to the eight (8) scheduled holidays listed, all classified employees shall be granted five (5) floater days off during the calendar year at an accrual rate of three and one-third (3.33) hours per month. The floater days shall be taken in a manner mutually agreeable to the employee and the employee's Department Head, but must be taken off during the calendar year in which they are granted. The floater days shall not be charged against accumulated annual leave. Payment for floater days shall be authorized only by the Department Head with prior approval by the Administration Director to cover emergencies and unusual working requirements in departments with twenty-four (24) hour operations. A classified employee may take a floater day(s) prior to accrual, however, in the event of termination, the employee shall be charged for a floater day(s) taken but not accrued. Employees hired during the calendar year shall be authorized to take only the amount accruable for the balance of that calendar year.

All classified employees of the City shall be granted full pay for holidays under the following conditions. Employees in a classified part-time status shall be entitled to holiday benefits only if the holiday is observed on their normally scheduled workday. When a holiday falls on a Saturday, the preceding Friday shall be observed; when the holiday falls on a Sunday, the following Monday shall be observed. The City Manager

may adjust the schedule to accommodate special circumstances. Classified employees required to work on authorized holidays shall be paid their normal hourly rate of pay plus holiday pay or receive a compensatory day off with pay at the straight time rate. If a holiday falls within an employee's annual leave, it will be charged to holiday pay rather than annual leave. If an employee is sick on a holiday he is scheduled to work, the day will be charged as sick pay rather than holiday pay. An employee must work or be in an approved leave status with pay the last workday before and the next workday following a holiday in order to be paid for the holiday.

6.3 Retirement and Life Insurance

The City is covered under the Virginia Retirement System (VRS). This is a state system which works in conjunction with Social Security to provide an employee retirement income. It is mandatory for all eligible employees to become members of VRS. The system is financed from the City's appropriation -- paying both the employee's and employer's shares. An employee leaving service before qualifying for retirement may withdraw the total of his contributions plus accrued interest or may elect to remain covered.

Two types of disability retirement are available under VRS -- Regular Disability and Work Related Disability. In both instances, the application for disability shall be subject to a determination by the VRS Medical Board.

Included within VRS is a group Life Insurance Program. Low cost life insurance is provided without a medical examination in the amount of your annual salary, rounded to the next higher whole thousand, and doubled for normal death and with an accident at death benefit two times that total. Also included in this program are: dismemberment payment for accidental loss of one or more limbs or eyesight; life insurance after retirement at no cost to the employee; the option to purchase additional life insurance for the employee's spouse and children; and, conversion privileges for thirty-one (31) days after leaving employment with the City.

Reference should also be made to the VRS Handbook for Members for a detailed explanation of retirement and life insurance benefits.

6.4 WinFlex

Classified employees are eligible to participate in a cafeteria-style benefits plan. This plan allows an employee to choose his benefit package based on his individual needs. The City adds a fixed dollar amount to each employee's gross pay, and the benefits are deducted on a pre-tax basis pursuant to Title 26 Section 125 of the Internal Revenue Code. Each employee must use all of their cafeteria dollars. Reference should also be made to the WinFlex booklet for a detailed explanation of the City's cafeteria benefits plan.

The City's insurance plans are usually obtained and paid in monthly increments. New employees are eligible for coverage the first day of the month following the benefit waiting period. The City's share of the monthly premium will be paid on a prorated basis determined by the number of days in a month an employee is in a paid status. For instance, if an employee is paid for the entire month, the City's portion will be paid in full. For an employee who terminates or goes on leave of absence without pay during the month, he must pay the prorated premium differences either through a payroll deduction or personal payment.

Employees can choose from the following menu of benefits:

A. **Health Insurance**

The City offers its employees and their families the opportunity to enroll in its group health insurance plan which includes hospitalization, physician, major medical, and basic vision coverage.

Employees retiring with the City with full service benefits under Virginia Retirement System are eligible for a City Council determined monthly allowance towards the purchase of retiree health insurance until Medicare eligible. The retiring employee must have a minimum of twenty (20) years service with the City. All other retiring employees are eligible for Consolidated Omnibus Budget Reconciliation Act (COBRA) benefits.

B. **Enhanced Vision**

The City offers its employees and their families the opportunity to enroll in an enhanced vision plan which includes an annual routine eye exam and contact lens fitting as well as network discounts.

C. **Dental Insurance**

The City offers a basic dental plan to its classified employees that includes preventive care and basic restorative treatment.

D. **Short-term Disability Insurance**

All classified employees have the option of enrolling in a short-term disability plan. The premium is based on the employees' age and up to 70% of their weekly salary. Benefits will become payable on the 15th day of the disability and will be payable for a maximum of 26 weeks. The payment of premiums is required during the period of disability.

E. **Cancer Insurance**

Only classified employees who were enrolled in the cancer insurance plan prior to 01/01/2005 are eligible to continue enrollment in this plan. The plan provides coverage to help employees pay the many bills incurred for cancer treatments. This is in addition to the health insurance and is paid directly to the employee to supplement his income.

F. **Pre-paid Legal Insurance**

Pre-paid Legal Insurance provides classified employees with preventative legal services such as legal document review, will preparation, and telephone consultations; motor vehicle services including personal injury/property damage collection assistance; and trial defense services.

G. **Critical Illness Insurance**

All classified employees have the option of enrolling in Critical Illness Insurance which pays an up-front cash benefit upon diagnosis of a covered illness or condition.

H. **Flexible Spending Accounts**

Classified employees can use their WinFlex dollars to open flexible spending accounts to pay for dependent day care and unreimbursed medical expenses.

6.5 Employee Assistance Plan (EAP)

The City offers an Employee Assistance Plan (EAP) for all its employees, volunteers, and family members, providing a 24 hour counseling intervention service to help those experiencing alcohol/drug problems, marital conflicts, family problems, emotional difficulties, legal problems, and financial concerns (See Appendix L). The employee contacts the EAP provider directly to arrange an appointment. The first five visits for the employee and each family member is free during each contract year. The contract year is defined as July 1 – June 30 of each year. Many problems can be handled by telephone or within the first three meetings. Referrals for additional or specialized help will be made if needed. Such referrals to outside agencies are carefully screened to insure quality care is provided. The employee's right to privacy is one of the most crucial aspects of this program. Mandatory referrals to the EAP can be made by the City Manager and Administration Director for performance based concerns and misconduct.

6.6 Tuition Assistance

A. **Purpose**

The City of Winchester values continued education and considers it a vital part of employee development. Tuition assistance is designed to aid in attracting desirable new employees; to improve the quality of leadership in City operations; and encourage continued training and education for enhanced job performance and potential advancement in the City service. Courses must be directly or reasonably related to the employee's job duties or to a position to which the employee could reasonably aspire to progress.

B. Definition

Tuition Assistance is a cost-sharing program to aid employees in furthering their training and education.

C. Eligibility

All full and part-time classified employees may apply for tuition assistance. The employee must have satisfactory work performance. Tuitions assistance for part-time employees will be prorated based on the number of regularly scheduled hours worked per week.

Assistance is contingent on the availability of funds in the department's budget and the City reserves the right to limit the total career reimbursement for any employee. An employee may be eligible for or is receiving tuition benefits under the GI Bill, scholarships, veteran's benefits or other forms of tuition assistance. An employee must certify that other educational assistance entitlement has been exhausted.

An employee agrees to repay the tuition assistance received by continuing employment with the City for a minimum period of one year in a consecutive manner per each course completed. If his employment with the City is terminated for any reason before completing this minimum period of service, the employee agrees to repay, on a prorated basis, the dollar amount not repaid by service.

D. Benefit

Eligible expenses include tuition, fees, and books for the coursework requested. All expenses require appropriate documentation. Courses that meet degree requirements rather than being job related shall not be approved. Specific training and workshops related to an employee's position shall be provided through the department's training account rather than the Tuition Assistance program. The employee must receive a grade of "C" (numerical 2.0) or higher in undergraduate courses, a grade of "B" (numerical 3.0) or higher in graduate courses, a grade of "pass" in a pass/fail course, or certificate of course completion.

An employee may enroll in multiple courses per fiscal year. The maximum amount the City will reimburse is related to their years of service with the City. Any cost exceeding the maximum is the employee's responsibility. Tuition reimbursement date indicates fiscal year for which total reimbursement monies will be charged.

<u>Years of Service</u>	<u>High School, Technical School or Undergraduate Courses</u>	<u>Graduate Courses</u>
1 - 5	\$ 800.00 / year	\$1000.00 / year
5 -10	\$1600.00 / year	\$2000.00 / year
10 +	\$3200.00 / year	\$4000.00 / year

If a course is available locally at a lower cost, the City will pay that cost instead of the distance learning rate or the rate of another institution. The employee is required to pay the difference.

Employees with 5 or more years of service are eligible to receive course prepayment. If an employee receives payment in advance and does not achieve the grade required, drops the course or the course is cancelled, the employee agrees to repay the City in full.

Employees should promptly notify the Administration Department in writing if they (1) withdraw from a course (2) change a course (3) expect a final grade to be late. If an employee changes a course, he must reapply for tuition assistance.

E. Pre-Enrollment Application and Approval

Normally, an employee must take the course outside of regular working hours; however an employee may attend courses during working hours at the discretion of the City Manager. The City Manager, on advice of the Administration Director, will decide if the employee will take straight work time for the time spent in class, use compensatory time, or take the course on his own time.

An employee must file a completed Pre-Enrollment Application for Tuition Assistance (See Appendix L) including Department Head and Finance Director approval with the Administration Department. The application will be forwarded to the City Manager for consideration. The Administration Department will notify the employee of his acceptance or denial.

F. Reimbursement Procedure

Unless extenuating circumstances exist, only pre-approved tuition assistance will be reimbursed.

The employee must, within 30 days of course completion, complete an Application for Tuition Assistance Reimbursement (See Appendix L) and forward to the Administration Department proof of cost of the course, receipt or cancelled check, and evidence of final grade from the educational institution. Approved expenditures will be promptly reimbursed. Tuition reimbursement date indicates fiscal year for which total reimbursement monies will be charged.

6.7 Education Incentive Plan*

A. Purpose

The City of Winchester values educational accomplishment and considers it a vital part of employee development. The attainment of higher education serves to improve the quality of leadership in City operations, enhances job performance and provides advancement opportunities in the City service. The provision of an education incentive will also serve as an aid in recruitment and retention of a quality workforce.

B. Definition

Education incentive is bonus pay for attaining higher educational course work above what is required of the position. The bonus pay will be separate from the City's Classification and Compensation Plan and will not be added to an employee's annual salary rate.

C. Eligibility

All full and part-time classified employees may apply for education incentive. The employee must have satisfactory work performance. Education incentive for part-time employees will be prorated based on the number of regularly scheduled hours worked per week.

(*Policy was approved by City Council for incentive award December, 2002 and continuing. Appendix M contains the list of Police Department employees grandfathered under the former College Incentive Policy. The rates are frozen unless lower than newly adopted plan.)

D. Benefit

Eligible full-time employees shall receive an annual bonus of a minimum of \$500 to \$1,500 maximum for the following:

- a. Employees serving in a position that requires or prefers less than a high school degree or GED are eligible to receive an annual bonus of \$1,000 for high school degree or GED. An additional \$500 annual

bonus will be granted to employees with a job related associate's degree from an accredited college or university.

- b. Employees serving in a position that requires or prefers a high school degree or GED are eligible to receive an annual bonus of \$1,000 for a job related associates degree from an accredited college or university. An additional \$500 annual bonus will be granted to employees with a job related bachelor's degree from an accredited college or university.
- c. Employees serving in a position that requires or prefers a college degree are eligible to receive an annual bonus of \$1,000 for a job related post graduate degree from an accredited college or university. An additional \$500 annual bonus will be granted to employees with an additional job related post graduate degree.
- d. \$500 annual bonus will be granted to an employee whose degree is not job-related but exceeds the required or preferred degree requirements of the position.

E. **Application and Approval**

Any employee with the required service credit may apply for the annual bonus by completing an Education Incentive Application Form (See Appendix N) and attaching the required documentation to certify the level of attainment. Certified applications must be submitted to the Administration Director for authorization and payroll processing. Annual Education Incentive bonuses will be awarded in December of each calendar year. To be eligible for an annual bonus, an employee must have met the length of service and course work requirements prior to the issue date of the bonus check.

6.8 Deferred Compensation

The City provides a deferred compensation plan for interested employees. The plan allows the employee to defer a portion of salary which will not be subject to current federal or state income taxes. The deferred amount is invested with firms under contract with the City and is generally not available for withdrawal until retirement or termination. An individual account is established for each participant for the accumulation and payment of benefits. The overall purpose of the plan is to lower current income taxes and increase the money available for retirement income.

6.9 Social Security

All employees of the City are covered under the Federal Old Age Survivor's Disability and Health Insurance Program which is commonly referred to as Social Security.

6.10 Unemployment Compensation

All employees are covered under the State Unemployment Compensation Act. Employees terminated for misconduct or who voluntarily resign without good cause are not eligible for benefits.

6.11 Civil Liability Insurance

The City provides professional liability insurance for employees. This insurance plan protects an employee, subject to the terms of the policy, from legal and court cost when a suit is brought against an employee because of activities in a professional capacity -- defined as activities in the course of duty as an employee with the City.

6.12 Promotional Opportunities

The City recognizes the importance of self-development for its employees and provides advancement opportunities for those employees interested in enhancing their career with the City. Vacancy lists are distributed to City worksites so that employees will know of current vacancies and can make application for a position vacancy in which they have interest. In addition, most position vacancies are posted on the City's website www.winchesterva.gov and on Winchester Community Television – Channel 20.

6.13 HIPAA Privacy Policy

A. Introduction

The City of Winchester, Virginia (the City) sponsors health insurance in the form of a self-insured medical plan with several coverage options, a medical expense flexible spending account under a Section 125 flexible benefit plan, and an employee assistance program (collectively, the Plans). As group health plans maintained by the same plan sponsor, the Plans are part of an organized health care arrangement. This policy therefore generally refers to the Plans by the singular term "the Plan." Members of City's workforce may have access to the individually identifiable health information of Plan participants (1) on behalf of the Plan itself, or (2) on behalf of the City, for administrative functions of the Plan.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its implementing regulations restrict the City's ability to use and disclose protected health information (PHI).

Protected Health Information. Protected health information means information that is created or received by the Plans and relates to the past, present, or future physical or mental health or condition of a participant; the provision of health care to a participant; or the past, present, or future payment for the provision of health care to a participant; and that identifies the participant or for which there is a reasonable basis to believe the information can be used to identify the participant. Protected health information includes information of persons living or deceased.

It is the City's policy to comply fully with HIPAA's requirements. To that end, all members of the City's workforce who have access to PHI must comply with this privacy policy. For purposes of this policy and the City's more detailed Use and Disclosure Procedures, the City's workforce includes individuals who would be considered part of the workforce under HIPAA such as employees, volunteers, trainees, and other persons whose work performance is under the direct control of the City, whether or not they are paid by the City. The term "employee" includes all of these types of workers.

No third party rights (including, but not limited to rights of Plan participants, beneficiaries, covered dependents, or business associates) are intended to be created by this policy. The City reserves the right to amend or change this policy at any time (and even retroactively) without notice. To the extent this policy establishes requirements and obligations above and beyond those required by HIPAA, the policy shall be aspirational and shall not be binding upon the City. This policy does not address requirements under other federal laws or under state laws.

B. Plan's Responsibilities as Covered Entity

1. Privacy Official and Contact Person

The City's Administration Director will act as Privacy Official for the Plan as an additional responsibility to such employee's other duties. The Privacy Official will be responsible for the development and implementation of policies and procedures relating to privacy, including but not limited to this privacy policy and the City's more detailed Use and Disclosure Procedures. The Privacy Official will also serve as the contact person for participants who have questions, concerns, or complaints about the privacy of their PHI.

2. Workforce Training

It is the City's policy to train all members of its workforce with access to PHI on its privacy policies and procedures. The Privacy Official is charged with developing training schedules and programs so that all

workforce members with access to PHI receive the training necessary and appropriate to permit them to carry out their functions within the Plan.

3. **Technical and Physical Safeguards and Firewall**

The City will establish, on behalf of the Plan, appropriate technical and physical safeguards to prevent PHI from intentionally or unintentionally being used or disclosed in violation of HIPAA's requirements. Technical safeguards include limiting access to information by creating computer firewalls. Physical safeguards include locking doors or filing cabinets.

Firewalls will ensure that only authorized employees will have access to PHI, that they will have access to only the minimum amount of PHI necessary for plan administrative functions, and that they will not further use or disclose PHI in violation of HIPAA's privacy rules.

4. **Privacy Notice**

The Privacy Official is responsible for developing and maintaining a notice of the Plan's privacy practices that describes:

- the uses and disclosures of PHI that may be made by the Plan;
- the individual's rights; and
- the Plan's legal duties with respect to the PHI.

The privacy notice will inform participants that the City will have access to PHI in connection with its plan administrative functions. The privacy notice will also provide a description of the City's complaint procedures, the name and telephone number of the contact person for further information, and the date of the notice.

The notice of privacy practices will be individually delivered to all participants:

- no later than April 14, 2004;
- on an ongoing basis, at the time of an individual's enrollment in the Plan; and
- within 60 days after a material change to the notice.

The Plan will also provide notice of availability of the privacy notice at least once every three years.

5. **Complaints**

A participant may lodge a complaint regarding the Plan's policies and procedures by filing a written notice with the Privacy Official describing the nature of the participant's complaint. The Privacy Official will review the complaint and provide the participant with a written response within 30 work days of receiving the participant's written complaint. Participants will be notified of this procedure in the Plan's privacy notice, additional copies of which shall be provided to any participant upon request.

6. **Sanctions for Violations of Privacy Policy**

Sanctions for using or disclosing PHI in violation of this HIPAA privacy policy will involve appropriate disciplinary action, up to and including termination.

7. **Mitigation of Inadvertent Disclosures of Protected Health Information**

The City shall mitigate, to the extent possible, any harmful effects that become known to it of a use or disclosure of an individual's PHI in violation of the policies and procedures set forth in this policy. As a result, if an employee becomes aware of a disclosure of PHI, either by an employee of the Plan or an outside consultant/contractor, that is not in compliance with this policy, immediately contact the Privacy Official so that the appropriate steps to mitigate the harm to the participant can be taken.

8. **No Intimidating or Retaliatory Acts; No Waiver of HIPAA Privacy**

No employee may intimidate, threaten, coerce, discriminate against, or take other retaliatory action against individuals for exercising their rights, filing a complaint, participating in an investigation, or opposing any improper practice under HIPAA.

No individual shall be required to waive his or her privacy rights under HIPAA as a condition of treatment, payment, enrollment or eligibility.

9. **Plan Document**

The Plan document shall include provisions to describe the permitted and required uses and disclosures of PHI by the City for plan administrative purposes. Specifically, the Plan document shall require the City to:

- not use or further disclose PHI other than as permitted by the Plan documents or as required by law;

- ensure that any agents or subcontractors to whom it provides PHI received from the Plan agree to the same restrictions and conditions that apply to the City;
- not use or disclose PHI for employment-related actions or in connection with any other employee benefit plan that is not part of the same organized health care arrangement;
- report to the Privacy Official any use or disclosure of the information that is inconsistent with the permitted uses or disclosures;
- make PHI available to Plan participants, consider their amendments and, upon request, provide them with an accounting of PHI disclosures;
- make the City's internal practices and records relating to the use and disclosure of PHI received from the Plan available to Secretary of Health and Human Services upon request; and
- if feasible, return or destroy all PHI received from the Plan that the City still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

The Plan document must also require the City to (1) certify to the Privacy Official that the Plan documents have been amended to include the above restrictions and that the City agrees to those restrictions; and (2) provide adequate firewalls.

10. **Documentation**

The Plan's and the City's privacy policies and procedures shall be documented and maintained for at least six years. Policies and procedures must be changed as necessary or appropriate to comply with changes in the law, standards, requirements and implementation specifications (including changes and modifications in regulations). Any changes to policies or procedures must be promptly documented.

If a change in law impacts the privacy notice, the privacy policy must promptly be revised and made available. Such change is effective only with respect to PHI created or received after the effective date of the notice.

The Plan and the City's shall document certain events and actions (including authorizations, requests for information, sanctions for violations, and complaints) relating to an individual's privacy rights.

The documentation of any policies and procedures, actions, activities and designations may be maintained in either written or electronic form. The Plan must maintain such documentation for at least six years.

C. **Policies on Use and Disclosure of PHI**

1. **Use and Disclosure Defined**

The City and the Plan will use and disclose PHI only as permitted under HIPAA. The terms “use” and “disclosure” are defined as follows:

- Use. The sharing, employment, application, utilization, examination, or analysis of individually identifiable health information by any person working for or within the Administration Department of the City, or by a Business Associate (defined below) of the Plan.
- Disclosure. For information that is protected health information, any release, transfer, provision of access to, or divulging in any other manner of individually identifiable health information to persons not employed by or working within the Administration Department of the City.

2. **Workforce Must Comply With the City’s Policy and Procedures**

All members of the Plan’s workforce with access to PHI (described at the beginning of this policy and referred to herein as “employees”) must comply with this policy and with the City’s more detailed Use and Disclosure Procedures, which are set forth in a separate document.

3. **Access to PHI Is Limited to Certain Employees**

The following employees (“employees with access”) have access to PHI:

- The City’s Director of Administration, Payroll and Benefits Manger, Account Clerk III, Administration Department Secretary, Human Resource Manager, Grants Coordinator and Risk Manager, Finance Director, Chief Accountant, and Senior Account Clerk perform functions directly on behalf of the Plan, and
- The City’s Director of Administration, Payroll and Benefits Manger, Account Clerk III, Administration Department Secretary, Human Resource Manager, Grants Coordinator and Risk Manager, Finance Director, Chief Accountant, and Senior Account Clerk have access to PHI on behalf of the City for its use in plan administrative functions.

The same individuals may be named or described in both of these two categories. These employees with access may use and disclose PHI for plan administrative functions, and they may disclose PHI to other employees with access for plan administrative functions (but the PHI disclosed must be limited to the minimum amount necessary to perform the

plan administrative function). Employees with access may not disclose PHI to employees (other than employees with access) unless an authorization is in place or the disclosure otherwise is in compliance with this policy and the more detailed Use and Disclosure Procedures.

4. **Permitted Uses and Disclosures: Payment and Health Care Operations**

PHI may be disclosed for the Plan's own payment purposes, and PHI may be disclosed to another covered entity for the payment purposes of that covered entity.

Payment. Payment includes activities undertaken to obtain Plan contributions or to determine or fulfill the Plan's responsibility for provision of benefits under the Plan, or to obtain or provide reimbursement for health care. Payment also includes:

- eligibility and coverage determinations including coordination of benefits and adjudication or subrogation of health benefit claims;
- risk adjusting based on enrollee status and demographic characteristics; and
- billing, claims management, collection activities, obtaining payment under a contract for reinsurance (including stop-loss insurance and excess loss insurance) and related health care data processing.

PHI may be disclosed for purposes of the Plan's own health care operations. PHI may be disclosed to another covered entity for purposes of the other covered entity's quality assessment and improvement, case management, or health care fraud and abuse detection programs, if the other covered entity has (or had) a relationship with the participant and the PHI requested pertains to that relationship.

Health Care Operations. Health care operations means any of the following activities to the extent that they are related to Plan administration:

- conducting quality assessment and improvement activities;
- reviewing health plan performance;
- underwriting and premium rating;
- conducting or arranging for medical review, legal services and auditing functions;
- budget planning and development; and
- budget management and general administrative activities.

5. **No Disclosure of PHI for Non-Health Plan Purposes**

PHI may not be used or disclosed for the payment or operations of the City's "non-health" benefits (e.g., disability, workers' compensation, life insurance, etc.), unless the participant has provided an authorization for such use or disclosure (as discussed in "Disclosures Pursuant to an Authorization") or such use or disclosure is required by applicable state law and particular requirements under HIPAA are met.

6. Mandatory Disclosures of PHI to Individual and Department of Labor

A participant's PHI must be disclosed as required by HIPAA in two situations:

- The disclosure is to the individual who is the subject of the information; and
- The disclosure is made to the Secretary of Health and Human Services for purposes of enforcement of HIPAA.

7. Permissive Disclosures of PHI When Additional Requirements Are Met

PHI may be disclosed in the following situations without a participant's authorization, when specific requirements are satisfied. The City's more detailed Use and Disclosure Procedures describe specific requirements that must be met before these types of disclosures may be made. The requirements include prior approval of the City's Privacy Official. Permitted are disclosures:

- about victims of abuse, neglect or domestic violence;
- for judicial and administrative proceedings;
- for law enforcement purposes;
- for public health activities;
- for health oversight activities;
- about decedents;
- for cadaveric organ, eye or tissue donation purposes;
- for certain limited research purposes;
- to avert a serious threat to health or safety;
- for specialized government functions; and
- that relate to workers' compensation programs.

8. Disclosures of PHI Pursuant to an Authorization

PHI may be disclosed for any purpose if an authorization that satisfies all of HIPAA's requirements for a valid authorization is provided by the participant. All uses and disclosures made pursuant to a signed

authorization must be consistent with the terms and conditions of the authorization.

9. **Complying With the “Minimum Necessary” Standard**

HIPAA requires that when PHI is used or disclosed, the amount disclosed generally must be limited to the “minimum necessary” to accomplish the purpose of the use or disclosure. The “minimum necessary” standard does not apply to any of the following:

- uses or disclosures made to the individual;
- uses or disclosures made pursuant to a valid authorization;
- disclosures made to the Department of Labor;
- uses or disclosures required by law;
- uses or disclosures required to comply with HIPAA.

Minimum Necessary When Disclosing PHI. For making routine and recurring disclosures of PHI, the amount disclosed shall be limited to the amount reasonably necessary to achieve the purpose of the disclosure.

All other disclosures must be reviewed on an individual basis with the Privacy Official to ensure that the amount of information disclosed is the minimum necessary to accomplish the purpose of the disclosure.

Minimum Necessary When Requesting PHI. For making requests for disclosure of PHI from the Plan for purposes of routine and recurring requests, the amount requested shall be limited to the amount reasonably necessary to accomplish the purpose for which the disclosure is requested.

All other requests must be reviewed on an individual basis with the Privacy Official to ensure that the amount of information requested is the minimum necessary to accomplish the purpose of the disclosure.

10. **Contracts with Business Associates**

Employees may disclose PHI to the Plan’s business associates and allow the Plan’s business associates to create or receive PHI on its behalf. However, prior to doing so, the Plan must first obtain assurances from the business associate that it will appropriately safeguard the information. Before sharing PHI with outside consultants or contractors who meet the definition of a “business associate” employees must contact the Privacy Official and verify that a business associate contract is in place.

Business Associate is an entity or person who:

- performs or assists in performing a Plan function or activity involving the use and disclosure of protected health information (including claims processing or administration; data analysis, underwriting, etc.); or
- provides legal, accounting, actuarial, consulting, data aggregation, management, accreditation, or financial services, where the performance of such services involves giving the service provider access to protected health information.

11. **Disclosures of De-Identified Information and Limited Data Sets**

The Plan may freely use and disclose de-identified information. De-identified information is health information that does not identify an individual and with respect to which there is no reasonable basis to believe that the information can be used to identify an individual. There are two ways a covered entity can determine that information is de-identified: either by professional statistical analysis or by removing 18 specific identifiers.

The Plan may use or disclose a “limited data set” to another entity for purposes of research, public policy, or health care operations if the Plan obtains satisfactory assurance, in the form of a data use agreement, that the limited data set recipient will only use or disclose the protected health information for limited purposes. A limited data set is information with 16 specific identifiers removed.

D. **Policies on Individual Rights**

1. **Access to Protected Health Information and Requests for Amendment**

HIPAA gives participants the right to access and obtain copies of their protected health information that the Plan (or its business associates) maintains in designated record sets. HIPAA also provides that participants may request to have their PHI amended. In accordance with the City’s privacy procedures, the Plan will provide access to PHI and it will consider requests for amendment that are submitted in writing by participants.

Designated Record Set is a group of records maintained by or for the City that includes:

- the enrollment, payment, and claims adjudication record of an individual maintained by or for the Plan; or

- other protected health information used, in whole or in part, by or for the Plan to make coverage decisions about an individual.

2. **Accounting**

An individual has the right to obtain an accounting of certain disclosures of his or her own PHI. This right to an accounting extends to disclosures made in the last six years, other than disclosures:

- to carry out treatment, payment or health care operations;
- to individuals about their own PHI;
- incident to an otherwise permitted use or disclosure;
- pursuant to an authorization;
- for purposes of creation of a facility directory or to persons involved in the patient's care or other notification purposes;
- as part of a limited data set; or
- for other national security or law enforcement purposes.

The Plan shall respond to an accounting request within 60 days. If the Plan is unable to provide the accounting within 60 days, it may extend the period by 30 days, provided that it gives the participant notice (including the reason for the delay and the date the information will be provided) within the original 60-day period.

The accounting must include the date of the disclosure, the name of the receiving party, a brief description of the information disclosed, and a brief statement of the purpose of the disclosure (or a copy of the written request for disclosure, if any).

The first accounting in any 12 month period shall be provided free of charge. The Privacy Official may impose reasonable production and mailing costs for subsequent accountings.

3. **Requests for Alternative Communication Means or Locations**

Participants may request to receive communications regarding their PHI by alternative means or at alternative locations. For example, participants may ask to be called only at work rather than at home. Such requests shall be honored in the sole discretion of the City. However, the City shall accommodate such a request if the participant clearly provides information that the disclosure of all or part of that information could endanger the participant. The Privacy Official has responsibility for administering requests for confidential communications.

4. **Requests for Restrictions on Uses and Disclosures of Protected Health Information**

A participant may request restrictions on the use and disclosure of the participant's PHI. Such requests shall be honored in the sole discretion of the City. The City's Administration Department is charged with responsibility for administering requests for restrictions.

6.13 Continuation of Health Coverage — COBRA

Classified employees who participate in the City's WinFlex plan and select insurance are covered under the Consolidated Omnibus Budget Reconciliation Act (COBRA). COBRA gives employees and their families who lose their insurance benefits the right to choose to continue group health benefits provided by their group insurance for limited periods of time under certain circumstances such as voluntary or involuntary job loss, reduction in the hours worked, transition between jobs, death, divorce, and other life events. Qualified individuals are required to pay the entire premium for coverage up to 102 percent of the cost to the plan.

EMPLOYEE RELATIONS

7.1 Performance Evaluation

A. Objective

The purpose of the employee performance evaluation will be primarily to inform employees about how well they are performing their work and how they can improve their work performance. The performance evaluation may also be used in determining salary increments; as a basis for training, promotion, demotion, transfer or discharge; and for such other purposes as set forth in these regulations.

B. Period of Evaluation

Supervisors have the responsibility of periodically evaluating the performance of each employee and discussing the evaluation with the employee. These evaluations shall be conducted no later than the end of the probationary period for new employees and annually in June for all other classified employees. The evaluation shall be used as a feedback session. When used as a basis for a merit increase, this shall be awarded on the basis of the degree of satisfactory job performance. An employee shall not be eligible for a merit increase until the performance evaluation form has been completely processed. An evaluation shall be done for employees at the maximum of their salary grade even though they may not be eligible for an increase. Evaluations for Department Heads shall be conducted by the City Manager.

C. Evaluation and Merit Increase

Evaluations shall be prepared by the immediate supervisor of each employee and reviewed by the appropriate Department Head. Department Heads may request merit increases within Council guidelines for all eligible employees and submit these to the Administration Director. The City Manager with assistance from the Administration Director shall determine the percentage of merit increase awarded based on evaluations, Department Head recommendations, and available funding. All employees' salaries shall be set by the City Manager.

D. Review with Employee

Each employee shall have the opportunity to review every evaluation made of him. Upon a review of the evaluation, the employee shall sign the evaluation form to indicate that it has been reviewed. (See Appendix O for the Performance Evaluation Manual and forms)

7.2 **Discipline**

A. **Purpose**

The purpose of this policy is to provide a guideline to correct an employee's unsatisfactory work performance or misconduct in an effort to promote maximum utilization of employee potential.

B. **Policy Statement**

The City of Winchester shall support the practice whereby all, probationary, classified, and non-classified employees shall be disciplined by the same process. The discipline of an employee shall be a progressive process except when an extremely serious policy violation has occurred. Disciplinary actions of lesser severity than discharge shall be taken in an attempt to correct an employee's unsatisfactory work performance or misconduct before a discharge is initiated. Generally, a discharge may be considered as appropriate only as a last resort or when an extremely serious policy violation has occurred.

C. **Forms of Disciplinary Action**

An employee suspected of violating policy may be placed on Administrative Leave with pay by the City Manager, pending the outcome of an investigation. This provides the Administration Department with the assistance of the Department Head time to investigate the complaint without financially harming the employee. All proposed disciplinary action must be approved by the Administration Director and City Attorney. When a complaint is founded, disciplinary action may take any of the following forms and is not necessarily restricted to the order set forth below:

- **Verbal Reprimand** - A verbal reprimand is a discussion between the supervisor and the employee wherein the employee is advised and cautioned with reference to unsatisfactory work performance or misconduct. Department Heads should document all instances of verbal counseling and advise the Administration Director of aforementioned counseling. However, this is not placed in the official personnel file.
- **Written Reprimand** - A written reprimand is a written documentation to the employee from the supervisor wherein the employee is advised and cautioned with reference to unsatisfactory work performance or misconduct.
- **Suspension** - A suspension is the temporary removal from duty of an employee for cause. The suspension period shall be without pay.

- Withholding of Merit Increase - The withholding of a merit increase is the denial or postponement of any merit increase within the pay range of a class which is normally awarded upon the employee's completion of a prescribed period of successful job performance.
- Administrative Decrease - An administrative decrease is a reduction within the pay range of a class as a disciplinary action resulting from unsatisfactory job performance or misconduct. An administrative decrease requires a letter of justification submitted by the respective Department Head to the City Manager.
- Disciplinary Demotion - A disciplinary demotion is a reduction in the pay grade of an employee for disciplinary reasons in conjunction with a change in job duties and responsibilities. A disciplinary demotion may result in a transfer.
- Discharge - Discharge is the involuntary separation from employment initiated by the City as a result of an employee's unsatisfactory work performance or misconduct.
- Decision Day – The City may utilize the option of Decision Day in lieu of disciplinary action. An employee is instructed to take one day off with pay to decide if he wants to continue to work for the City. If the employee decides to resign from the City, he may do so voluntarily by submitting a written resignation. If the employee decides to continue working for the City, he signs an agreement to abide by all the rules and regulations of the employer. He is also advised that should additional misconduct occur or unsatisfactory performance continue, he will be subject to disciplinary action up to and including discharge.

D. Causes for Disciplinary Action

The following are examples of unsatisfactory work performance and misconduct that may be cause for disciplinary action. The offenses listed are not all inclusive:

- Unsatisfactory attendance or excessive tardiness
- Insubordination
- Unwillingness to render satisfactory service
- Conduct unbecoming an employee of the City during working hours or while representing the City
- Failure to report to work without notice to supervisor

- Failure of supervisor to perform responsibilities of position including reporting incidents of misconduct
- Willfully giving false statements to officials or the public; falsifying records such as personnel records, time records, or vouchers;
- Negligence with City property or taking or using such property for personal use
- Conduct of a threatening, harassing, or discriminating nature
- Sleeping on the job
- Violation of City policy and procedures
- Criminal convictions that prevent an employee from performing job duties
- Negligence or conduct endangering the safety of self or others

E. Administrative Procedure

1. A pre-disciplinary hearing shall be conducted with the employee. The purpose of this hearing is to tell the employee of the alleged violations, give him an opportunity to respond and advise him of the possible disciplinary action.
2. Upon completion of the investigation, the disciplinary action is approved by the City Attorney, Administration Director, and City Manager. A written notice including the items listed below shall be delivered to the employee and receipt obtained for disciplinary actions involving a written reprimand, suspension, withholding of merit increase, administrative decrease, demotion, or discharge.
 - a. A statement of the reasons for the disciplinary action
 - b. Except in cases of discharge, a warning of what further disciplinary action could result if the situation is not corrected
 - c. A statement of employee's right to appeal in accordance with the City's grievance procedure
3. A copy of such written notice shall be forwarded to the Administration Department for inclusion in the employee's official personnel file.

7.3 Sexual Harassment Policy

A. Purpose

The City is committed to the maintenance and promotion of the policy of nondiscrimination and incorporates sound merit principles in all aspects of personnel management affecting its employees and applicants. Personnel

management shall be implemented free of discrimination, sexual harassment, and any other conduct inconsistent with sound merit principles as defined in the City's Affirmative Action Plan. (See Appendix G)

The sexual harassment of any employee of the City by any other employee or non-employee is demeaning to both the victim of the harassment and to the City. It can result in high turnover, absenteeism, low morale, and uncomfortable work environment. Some forms of sexual harassment, including certain kinds of unwelcome physical contact, may also be criminal offenses. The City has a zero tolerance policy, will not tolerate the sexual harassment of any of its employees, and will take immediate disciplinary action to stop it when it occurs.

B. Definition

1. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
 - a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
 - b. submission to or rejection of such conduct by an individual is used as basis for employment decisions affecting such individual, or
 - c. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment.
2. Physical conduct of a sexual nature shall include, but not be limited to sexually oriented "kidding" or jokes; physical contact such as patting, pinching or purposely rubbing against another person's body.

C. Making Sexual Harassment Complaints

Any employee who feels he is being subjected to sexual harassment should immediately contact one of the persons below with whom the employee feels the most comfortable. Complaints may be made orally or in writing to:

1. The employee's immediate supervisor.
2. The employee's Department Head.
3. The Equal Employment Opportunity Officer (Administration Director).
4. The City Manager.

The employee should be prepared to provide the following information:

1. Employee's name, department and position title.
2. The name of the person or persons committing the sexual harassment.

3. The specific nature of the sexual harassment, how long it has gone on, and any employment action (demotion, failure to promote, discharge, refusal to hire, transfer, etc.) taken against him as a result of the harassment, or any other threats made against him as a result of the harassment.
4. Witnesses to the harassment, if any.
5. Whether he has previously reported such harassment and, if so, when and to whom.

D. Reporting and Investigation of Sexual Harassment Complaints

The City Manager is the person designated by the City to be the investigator of complaints of sexual harassment. The City Manager may delegate the investigation to another City employee at his discretion.

When an allegation of sexual harassment is made by any employee, the person to whom the complaint is made shall immediately prepare a report of the complaint according to the preceding section and submit it to the City Manager.

The investigator shall make and keep a written record of the investigation, including notes of verbal responses made to the investigator by the person complaining of sexual harassment, witnesses interviewed during the investigation, the person against whom the complaint of sexual harassment was made, and any other person contacted by the investigator in connection with the investigation. The notes shall be made at the time the verbal interview is in progress.

Based upon the report, the City Manager shall determine whether the conduct of the person against whom a complaint of sexual harassment has been made constitutes sexual harassment. In making that determination, the City Manager shall look at the record as a whole and at the totality of circumstances, including the nature of the conduct in question, the context in which the conduct, if any, occurred. The determination of whether sexual harassment occurred will be made on a case-by-case basis.

If the City Manager determines that the complaint of sexual harassment is founded, he shall take immediate and appropriate disciplinary action against the employee guilty of sexual harassment.

The disciplinary action shall be consistent with the nature and severity of the offense, whether a supervisory relationship exists, and any other factors the City Manager believes relate to fair and efficient administration of the City, including the effect of the offense on employee morale, public perception of the offense, and the light in which it casts the City. The disciplinary action may include warning, reprimand, demotion, suspension, or discharge. A

determination of the level of disciplinary action shall also be made on a case-by-case basis.

E. Obligation of Employees

Employees have a responsibility to address offensive behavior directly with the offending employee. Should the offensive behavior continue, employees are not only encouraged to report instances of sexual harassment; they are obligated to do so. Sexual harassment exposes the City to liability, and a part of each employee's job is to reduce the City's exposure to liability.

Employees are obligated to cooperate in every investigation of sexual harassment, including coming forward with evidence, both favorable and unfavorable, to a person accused of sexual harassment, fully and truthfully making a written report or verbally answering questions when required to do so by an investigator during the course of an investigation of sexual harassment.

Employees are also obligated to refrain from filing bad faith complaints of sexual harassment.

Disciplinary action may also be taken against any employee who fails to report instances of sexual harassment, or who fails or refuses to cooperate in the investigation of a complaint of sexual harassment, or who files a complaint of sexual harassment in bad faith.

7.4 Grievance Policy and Procedure

A. Policy

It is the policy of the City Council to provide fair, equitable, and satisfactory working arrangements for its employees. Every effort will be made to resolve employee grievances informally with the least amount of worry and delay. In some cases, however, it becomes necessary to proceed through a formal appeal and panel review to handle thoroughly a given grievance.

Accordingly, the following procedures and regulations are established. This policy shall apply to all classified personnel, except Department Heads, and including employees of the local Social Services Department. Any complaint by a Department Head should be discussed directly with the City Manager. The City Manager shall make the final determination. Probationary employees are excluded from using this grievance procedure except in matters concerning complaints of discrimination on the basis of race, color, religion, national origin, political affiliation, gender, age or disability. Law enforcement officers may choose alternative policies set forth in Chapter 5 of Section 9.1 of the Code of Virginia.

B. Definition of Grievance

As defined in Section 15.2-1506-1507 of the Code of Virginia, a grievance shall be "...a complaint or dispute by an employee relating to his employment, including but not necessarily limited to (i) disciplinary actions, including discharges, disciplinary demotions, and suspensions, provided that discharges shall be grievable whenever resulting from formal discipline or unsatisfactory job performance, (ii) the application of personnel policies, procedures, rules and regulations, (iii) acts of retaliation as a result of utilization of the grievance procedure or participation in the grievance of another local government employee, (iv) complaints of discrimination on the basis of race, color, creed, political affiliation, age, disability, national origin or gender; and (v) acts of retaliation because the employee has complied with any law of the United States or of the Commonwealth, has reported any violation of such law to a governmental authority, or has sought any change in law before the congress of the United States or the General Assembly."

C. Grievance Procedure

An employee wishing to file a grievance shall have the right to follow all the steps of this procedure as listed below with complete freedom from reprisal. This does not, however, confer the right upon anyone to make slanderous or libelous statements. After the initial filing of a written grievance, failure of either party to comply with all substantial procedural requirements of the grievance procedure without just cause will result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five (5) business days of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the City Manager. Failure of either party without just cause to comply with all substantial procedural requirements at the panel hearing shall result in a decision in favor of the other party. (See Appendix P for Grievance Procedure forms)

STEP I

An employee, who has a grievance, as defined herein, shall within twenty (20) business days of the occurrence of the action or event causing the grievance or of the date when the employee could have reasonably been expected to have learned of the act or event, contact his immediate supervisor for a discussion of the grievance. The supervisor shall immediately discuss the grievance with the employee and make a careful inquiry into the facts and circumstances of the complaint. The supervisor shall give the employee a written reply within ten (10) business days following receipt of the complaint. ***Business days do not include authorized leave time of the person required to take some action.***

STEP II

If the grievance is not resolved as a result of Step I, the employee may within five (5) business days thereafter file on GRIEVANCE FORM, STEP II, a written grievance with his Department Head. The employee must be sure that the written grievance is complete in all details at this stage of the procedure and must state the specific relief he expects to obtain through the use of the grievance procedure. The Department Head shall immediately discuss the grievance with the employee and any appropriate witnesses for each side. Following the meeting, the Department Head shall inform the employee of his decision and the reasons therefore on GRIEVANCE FORM, STEP II, within ten (10) business days following receipt of the written grievance.

STEP III

If the Department Head's response does not resolve the grievance, the employee may within five (5) business days thereafter file with the City Manager on GRIEVANCE FORM, STEP III, a written request for a hearing, containing the employee's explanation of what has occurred. A copy shall also be sent to the employee's Department Head. Upon receipt of the written request for a hearing, and verification that Steps I and II have been exhausted, the City Manager shall within ten (10) business days schedule the hearing requested. The City Manager may request the presence of the Department Head or any other City official and witnesses at the hearing, and the employee may also have a representative and witnesses of his choice present. The City Manager shall give the employee a written reply on GRIEVANCE FORM, STEP III, within ten (10) business days after conclusion of the hearing. A copy of the reply shall be sent to the employee's Department Head.

STEP IV

If the City Manager's reply does not resolve the grievance, the employee may, within ten (10) business days thereafter file with the City Manager on REQUEST FOR PANEL HEARING FORM, a request that his grievance be submitted to a panel hearing, which shall be the final step of the grievance procedure.

In this step, it is not necessary that the employee again provide a written explanation of what has occurred, as this was contained in his written request submitted at Step II and as part of the record will be made available to the grievance panel.

Within ten (10) business days after the date of the written request for a panel hearing, a panel shall be chosen. One member shall be chosen by the grievant, one member shall be chosen by the City Manager, and one member shall be chosen by the first two appointees, who shall serve as Chairman. If no agreement on a third member can be made, the selection shall be made by the Judge of the Circuit Court. To insure an impartial panel, the panel shall not be composed of any persons having direct involvement with the grievance being heard by the panel, or with the complaint or dispute giving rise to the grievance. Employees who are in direct line of supervision of a grievant, persons residing in the same household as the grievant and the following relatives of a participant in the grievance process or a participant's spouse are prohibited from serving as panel members: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin. No attorney having direct involvement with the subject matter of the grievance, nor a partner, associate, employee or co-employee of the attorney shall serve as a panel member. The Panel shall schedule the date, time and place for the hearing which shall be within ten (10) business days following selection of the panel.

The parties shall not discuss the substance of any grievance or the problem giving rise to the grievance with any panel members prior to the hearing. Any matters requiring the attention of the panel shall be communicated in writing with copies to all parties.

The employee may have present at the hearing a representative or legal counsel at his own expense. Likewise, the City may have present at the hearing a representative or legal counsel. Copies of the written record of the case from Step II shall be provided the panel members by the City. Documents, exhibits and lists of witnesses shall be exchanged between the parties in advance of the hearing.

The conduct of the hearing shall be as follows:

1. The panel shall limit attendance at the hearing to persons having a direct interest in the case.
2. The panel may, at the beginning of the hearing, ask for statements clarifying the issues involved.
3. The panel has the authority to determine the admissibility of evidence without regard to the burden of proof, or the order of presentation of evidence, so long as a full and equal opportunity is afforded to all parties for the presentation of their evidence. Exhibits, when offered and when so received, shall be marked and made part of the record.

4. The employee and supervisor, or their representative, shall then present their claim and proofs and witnesses who shall submit to questions or other examination. The panel may, at its discretion, vary this procedure, but shall afford full and equal opportunity to all parties and witnesses for presentation of any relevant materials of proof. Witnesses shall normally be present in the panel hearing only while giving their testimony.
5. The parties may offer evidence and shall provide such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and of the parties.
6. All evidence taken by the panel shall be under oath.

The panel has the responsibility to interpret the application of appropriate City policies and procedures in the case. It does not have the prerogative to formulate or to change policies or procedures. The panel shall render its decision within ten (10) business days of the conclusion of the hearing. The majority decision of the panel shall be final and binding and shall be consistent with provisions of law and written policies. The question of whether the relief granted by a panel is consistent with written policy shall be determined by the City Manager unless he has a direct personal involvement with the event or events giving rise to the grievance, in which case the decision shall be made by the Commonwealth Attorney. Either party may petition the Circuit Court for an order requiring implementation of the decision of the panel.

D. Decisions Regarding Grievability

Decisions regarding grievability and access to the procedure shall be made by the City Manager at any time prior to the panel hearing, at the request of the **local** government or grievant, within ten (10) calendar days of the request. A copy of the ruling shall be sent to the grievant. Decisions of the City Manager may be appealed to the Circuit Court on the issue of whether the grievance qualifies for a panel hearing. Proceedings for review of the decision of the City Manager shall be instituted by the grievant by filing a notice of appeal with the City Manager within ten (10) business days from the date of receipt of the decision and giving a copy thereof to all other parties. Within ten (10) business days thereafter, the City Manager shall transmit to the Clerk of the Circuit Court to which the appeal is taken: a copy of the decision of the City Manager, a copy of the notice of appeal, and the exhibits. A list of the evidence furnished to the Circuit Court shall also be furnished to the grievant. The failure of the City Manager to transmit the record shall not prejudice the rights of the grievant. The court, on motion of

the grievant, may issue a writ of certiorari requiring the City Manager to transmit the record on or before a certain date.

Within thirty (30) business days of receipt of such records by the clerk, the court, sitting without a jury, shall hear the appeal on the record transmitted by the City Manager and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the decision of the City Manager, or may reverse or modify the decision. The decision of the court shall be rendered no later than fifteen (15) business days from the date of the conclusion of the hearing. The decision of the court is final and is not appealable.

E. Matters Deemed Not Grievable

Employees are advised that conditions of employment and law and policy established by the City Council are not grievable. By State law, wages, salaries, and fringe benefits, likewise, are not grievable. In addition, it is to be understood that the establishment of this procedure shall in no way remove the right of the City to do the following, provided however, that none of these rights may be exercised in an arbitrary or capricious manner:

1. Establishment and revision of wages or salaries, position classification or general benefits;
2. Work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected to be a part of the job content;
3. The contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;
4. Failure to promote except where the employee can show that established promotional policies or procedures were not followed or applied fairly;
5. The methods, means and personnel by which work activities are to be carried on except where such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance, discharge, layoff, demotion or suspension from duties because of lack of work, reduction in work force, or job abolition;
6. The hiring, promotion, transfer, assignment and retention of employees within the local government; and

7. The relief of employees from duties of the local government in emergencies.
8. Verbal and written reprimands which do not include performance requirements such as an Employee Improvement Plan, or a reduction in salary, pay grade, pay classification, rank, or a mandatory transfer unless the basis for the reprimand is alleged to be retaliation or discrimination.

In any grievance brought under the exception to Section 7.6 E 5 of this subsection, the action shall be upheld upon a showing by the local government that there was a valid business reason for the action, and the employee was notified of the reason in writing prior to the effective date of the action.

F. Costs and Expenses

Non-city employees serving as panel members are not compensated or reimbursed for any expenses. City employees who serve as witnesses or panel members during normal working hours are compensated at their regular rate of pay and this compensation is not charged against any leave.

Grievants who are still employed by the City are compensated at their regular rate of pay for the time spent during normal working hours for hearings provided in this procedure. This compensation is not charged against any leave.

Employees who are grieving termination are not compensated except in cases where a panel decision results in reinstatement with back pay.

The grievance procedure is designed for an employee to go through the process without the necessity for representation. While the employee has the freedom to select a representative of his choice if desired, there is no provision for any compensation or expense reimbursement for a representative.

7.5 Conflict Mediation

The City of Winchester provides a Conflict Mediation step to be used in lieu of the Grievance Procedure for personnel issues that both the City and grievant agree can be solved through this process. Employees wishing to pursue resolution of an employee grievance through Conflict Mediation must contact the Administration Director prior to finalizing a grievance. Conflict Mediation is most effective when dealing with personnel matters where both parties believe that compromise is an option.

Conflict Mediation will be conducted by a mediator trained through a certification program approved by the Virginia Supreme Court.

Nothing in a Conflict Mediation process is intended to deny an employee his rights under the Grievance Procedure. The time requirements for the Grievance Procedure shall be frozen when Conflict Mediation is pursued. Should Conflict Mediation not resolve the grievant's complaint, the employee may proceed further with the grievance without prejudice or in violation of the time requirements.

7.6 Solicitation

Unauthorized solicitation on City property during working hours is prohibited.

7.7 Conflict of Interest

It is the policy of the City and in accordance with Chapter 31 of Title 2.2 of the Code of Virginia, that no officer or employee shall solicit or accept gifts, favors, or services from persons or firms for services performed within the scope of his official duties or that might reasonably tend to influence him in the discharge of these duties. No employee shall offer or accept any money or other thing of value for or in consideration of obtaining appointment or promotion with any department.

No employee shall use for his own economic benefit or that of another party confidential information which was acquired by reason of his position and which is not available to the public.

7.8 Outside Employment

No employee shall engage in any other employment, or in any private business, or in the conduct of a profession during the hours he is employed to work for the City; or outside such hours to an extent that is likely to affect his efficiency as an employee of the City, that is likely to violate the City's Code of Ethics, or that is likely to be in violation of the Virginia Conflict of Interests Act. Employees may take occasional part-time jobs elsewhere if in the opinion of the Department Head there is no conflict with working hours or conflict with interests of the City.

7.9 Political Activity

City employees are prohibited from using their positions to influence or interfere with an election or to influence, coerce, or advise anyone to pay, lend, or contribute anything of value to a party, committee, organization, or person for political purposes.

This in no way is intended to prevent an employee from casting his vote, joining a political organization, attending political meetings, or expressing any opinion in private.

City employees are not prohibited from seeking public office, but must notify the City Manager's office prior to filing. When a classified City employee becomes a candidate for public office, he shall be required to take annual leave or a leave of absence without pay from the filing date through the election in order to avoid criticism of the employee and the City. (This provision does not apply to sworn law enforcement officers; however, if a sworn law enforcement officer becomes a candidate for public office, he must not conduct any part of his campaign during hours worked.) Upon the written request of the employee, he may be granted annual leave or a leave of absence without pay. For the purpose of this section, the term public office shall mean an elected public office of the City of Winchester and Frederick County, including City Council, the Board of Supervisors, Clerk of Circuit Court, Commissioner of the Revenue, Commonwealth's Attorney, Sheriff or Treasurer.

7.10 Official Personnel File Policy

The purpose of this policy is to establish an official personnel file and to provide a procedure governing the access, dissemination, and purging of information contained within this file.

The official personnel file shall be defined as the employment file containing personal information relevant to the individual's employment which is maintained by the City Manager or his designee.

The official personnel file shall be the only file which is to be considered official and complete in matters related to wage and salary, employee selection, and employee relations. Information pertaining to any personnel-related aspect of employment (e.g., letters of reprimand, letters of commendation, unemployment compensation requests, etc.) shall be contained within this file.

The access, dissemination, and purging of information contained within the file shall be in accordance with the Privacy Protection Act of 1976 and the Virginia Freedom of Information Act.

The following individuals shall be designated as having regular access to the official personnel files:

- A. The City Manager, the Administration Director, and their immediate staffs;
- B. Officers of Federal, State or local law enforcement agencies during the investigation of a violation or potential violation of the law.

The following individuals shall be designated as having regular access to a limited number of the official personnel files:

- A. Individual employees or former employees shall have regular access to their own personnel file after having satisfactorily demonstrated their identity;

B. Administrative boards and Department Heads shall have regular access to the official files of employees under their authority only.

All official personnel files shall be reviewed in the presence of a member of the Administration Director's staff.

There shall be no dissemination of any personal information contained within the official personnel file to any individual or organization not having regular access unless authorized by law or unless a Voluntary Release of Information Form has been completed both by the employee and the requesting individual agency.

7.11 Training and Travel

Prior approval by the Department Head and City Manager is required to authorize employees to attend short courses, seminars, college courses, conferences, meetings, etc., coincident with the employee's responsibilities with the City.

Requests for planned travel must be submitted on the Travel Authorization Form. (See Appendix Q)

Only in an emergency situation may an employee receive a cash advance for training and travel. Cash advances are subject to the approval of the City Manager or his designee.

A. Registration

Approved registration and tuition fees for employees shall be paid by the City if department funds are available.

B. Transportation

Travel shall be made in the most economical way possible. City vehicles shall be used for travel when available. Prior authorization by the City Manager or Department Head shall be required for mileage reimbursement of the current IRS mileage reimbursement rate for use of a personal vehicle.

C. Lodging

Reasonable overnight accommodations costs will be paid when necessary, and authorized in advance. The City shall pay the employee's occupancy rate. The employee shall pay additional costs for others.

D. Meals

The per diem rate for meals shall be \$40.00. Where less than a whole day's travel is involved or if a meal is part of an official program, per meal rates shall be \$8.00 for breakfast, \$10.00 for lunch and \$ 22.00 for dinner. Many conferences/seminars include one or more meals as part of the registration fee. These should not be included for reimbursement.

E. **Miscellaneous Expenses**

Miscellaneous expenses which are made for official business purposes may be reimbursed if approved and receipts are furnished.

The City Manager may waive any or all of these provisions when situational specifics so warrant.

7.12 **Use of Cellular Phones**

A. **Purpose**

Cellular phones are issued to employees in order to provide more efficient methods of customer service and increased communication for safety purposes. It is important that users of City supplied cellular phones understand it is a privilege.

This policy outlines the City guidelines regarding acceptable cellular phone use.

1. A City issued cellular telephone shall be used for appropriate business purposes when a safe, convenient, and less costly alternative is not available. Only City staff and other authorized persons conducting City business may use City cellular telephones. Use of cellular telephones that hinders productivity, interferes with City use, or is excessive is prohibited.
2. Personal use of a City cellular telephone is prohibited, except in cases of personal emergency or when extended work hours, unexpected travel, or when unanticipated changes in job-related circumstances require the employee to contact family members, teachers, doctors, daycare centers, or others affected by the change.
3. An employee is eligible for reimbursement in the event that the employee uses a non-City cellular telephone for City business where no other option was available and the call was urgent and necessary. After approval by the Department Head, reimbursement will be made for applicable air time.
4. Employees are responsible for taking proper care of cellular telephones and reasonable precautions against damage, loss, or theft. Loss of

cellular telephones should be reported to your supervisors. Losses attributable to negligence shall be replaced by the employee.

5. Employees are prohibited from using cellular telephones while operating a City vehicle, unless the employee is specifically trained and authorized to do so or unless utilizing a hands-free device. Employees are prohibited from using cellular telephones while operating or on the back of City equipment. Employees are instructed to safely park City vehicles and equipment before operating cellular telephones.
6. Discussions of confidential information over a cellular telephone should be avoided.
7. It shall be the responsibility of each department head or his designee on a monthly basis to document any personal calls made by each of his employees on City-issued cellular telephones and to ensure reimbursement is received by the City for any such calls. Each employee will review his own statement and submit a verification form to the department head indicating the amount of personal use and submitting reimbursement, when necessary.

7.13 Use of City Vehicles

City owned vehicles shall be used strictly for City business only. Any personal use of a City owned vehicle shall result in disciplinary action.

An employee may be allowed to drive a City owned vehicle home overnight and week-ends if the employee is in a position which is subject to on-call twenty four (24) hours a day, including week-ends and is, on a regular basis, called back to work. The Department Head shall recommend positions in the department which require taking a City vehicle home overnight and week-ends and submit this list to the City Manager for approval. A Department Head may authorize an employee to take a vehicle home for a specific purpose on a short-term basis. (For example, to attend an out of town conference.)

Any employee operating a City owned vehicle shall be required to:

- Abstain from operating communication devices such as cell phones and radios, unless specifically trained and authorized to do so or utilizing a hands-free device
- obey all applicable driving and traffic laws
- meet the standard licensing qualifications and notify his immediate supervisor on any change in status
- abstain from smoking in the City owned vehicle
- keep the vehicle reasonably clean

- report any accident, damage or repair concern to his immediate supervisor
- prohibit use of the vehicle by a family member or other non-authorized individual

Use of a City owned vehicle for commuting to and from home is taxable to most employees. Qualified tax exemptions include police and fire emergency vehicles and utility service trucks.

7.14 Acceptable Computer System and Network Use

A. Policy

The City provides employees, elected officials, and other authorized users (users) with access to technology including computer hardware, software and communications links, including internet access, (computer system) for business purposes.

The system shall be used to increase City intracommunication, enhance productivity, and assist City users in upgrading their skills through greater exchange of information with their peers. The system allows any computer user to find information and communicate on a worldwide network of computers. This information resource is available to users to enrich government and enhance the efficiency and effectiveness of service delivery to the public and other departments.

B. Purpose

Access to computer systems enables users to gather information relevant to the City's business from a variety of internal and external sources and to provide information to residents, potential residents, businesses, customers and suppliers, as well as business prospects. It is important that users of the City computer system understand that access is a privilege.

This policy outlines the City guidelines regarding acceptable computer system use.

C. Scope

This policy applies to all City employees, elected officials and other authorized users (users). For the purposes of this policy, "users" mean employees, elected officials and other authorized users such as volunteers.

Users have access to these systems consistent with the requirements of their task, and are encouraged to use the systems. Within and between organizations, E-mail can be an effective tool that helps break down

barriers to communication and promotes the free exchange of information and ideas.

“Internet” means all activities undertaken through the City’s Internet resources including electronic mail and browsing external web sites unless otherwise specified.

D. **City Responsibilities**

The Information Technology Director shall serve as the coordinator to oversee the City system and will work with other local, regional, or state organizations as necessary.

Department and Agency Heads or their designee shall ensure users receive proper training in the use of the system and the requirements of this policy and are responsible for interpreting the City Acceptable Use Policy at the Department or Agency level.

All hardware, software, on-line resource, and service purchases must be evaluated and approved beforehand by the Information Technology Director or designee.

E. **Technical Services**

The following services are provided:

- Enterprise wide business applications to support the governmental functions of Departments and Agencies
- Access, through direct or internet connection, to external databases for the Commonwealth of Virginia and other local, state, and federal agencies
- World Wide Web. The Web provides access to a wide range of information in the form of text, graphics, photographs, video, and sound, from throughout the world. The Web is a valuable research tool for users.
- E-mail. E-mail allows users to communicate with each other and with people throughout the world.
- Content Filtering. The City uses software designed to block access to certain sites and filter content.
- Internal website that provides City related information useful to employees (www.ci.winchester.va.us/internal)

F. **Access**

Access to the computer system is a privilege. Computer system access is provided to users upon approval by the Department or Agency Head and Information Technology Director. It is the responsibility of the Department Head to assess user needs and make recommendations to the Information Technology Director when granting access and periodically determine whether continued access is necessary. The user's Department Head should submit requests for adding or removing access rights (including employment termination) to the Information Technology Department in a timely manner using the current access request forms (See Appendix R).

To promote efficient use and avoid misuse of computer systems, users must complete an Acceptable Use Agreement prior to being granted access (See Appendix S). This agreement acknowledges receipt and understanding of this policy and the following Notice to Users that appears on City computers.

"NOTICE TO USERS"

"This is a City of Winchester Virginia computer system and is the property of the City of Winchester Virginia. It is for authorized use only. Users have no explicit or implicit expectation of privacy. Any and all use of this system may be monitored, recorded, copied, audited, inspected, and disclosed to City of Winchester Information Technology, and law enforcement personnel, as well as authorized officials of other agencies. Unauthorized or improper use may result in administrative action and civil and criminal penalties. By continuing to use this system you consent to these terms and conditions. LOG OFF IMMEDIATELY if you do not agree to the conditions stated in this warning."

G. **Ownership**

City provided computer systems are considered City property and are intended for business use only. Any and all contents on the computer system are subject to review by the City.

H. **Privacy of Communications**

Computer system users have a limited privacy expectation in the contents of their personal files on the City computer system. Technicians and computer system administrators maintain full rights to all storage subsystems and may need to access/modify such storage subsystems as a part of their duties.

Due to the inherent characteristics of internet and E-mail systems, correspondence via Internet or internet E-mail is NOT guaranteed to be private. While this policy document is in part intended to promote secure

communications, a user's rights while accessing the Internet by use of City property does not include the right to privacy. The City reserves the express right to monitor, and limit in any way, the activities of the users while accessing the Internet.

I. **Monitoring**

The City has no obligation to monitor or regulate the materials posted or distributed by users, but may have cause to monitor, and limit in any way, user usage to ensure proper working order, appropriate use by users, and the security of the City computer system.

The City has the right to monitor computer system activity as directed by the City Manager through any means it deems necessary.

Routine maintenance and monitoring of the computer system may lead to discovery that the user has or is violating this policy, other City policies, or the law. If there is reasonable suspicion that a user has violated the law or a City policy, an individual search shall be conducted. The nature of the investigation shall be reasonable and in the context of the nature of the alleged violation.

The City shall cooperate fully with local, state, or federal officials in any investigation concerning or relating to any illegal activities conducted through the City computer system.

J. **Acceptable Use**

Users should use the computer system in a responsible and professional manner reflecting the City's commitment to honest, ethical, and non-discriminatory business practice. Users shall use the computer system for City related business and professional or career development activities. Personal use of the system is permissible within reasonable limits as long as it does not interfere with or conflict with business use or interfere with the user's performance of their duties. Users are responsible for exercising good judgment regarding the reasonableness of personal use.

Users shall not conduct any type of personal business enterprise whether for profit or non-profit.

Users shall not release untrue, distorted, or confidential information regarding City business.

K. **Jeopardizing System Security**

Users are responsible for the use of their individual accounts and should take precautions to prevent others from being able to use their accounts. Under no circumstances should a user provide his/her password to another person or log on to the computer system and allow another user to work under their logon. Users shall not alter system or network settings or change configurations (hardware and software) except under the direct supervision of technology staff.

Users shall immediately notify the Information Technology Director if they identify a possible security problem. Users shall not go looking for security problems, because this may be construed as an illegal attempt to gain access.

Users shall avoid the inadvertent spread of computer viruses by following all virus protection procedures if they download software.

Users shall not intentionally interfere with the normal operation of the network, including the propagation of computer viruses and sustained high volume network traffic, which substantially hinders others in their use of the network.

Users shall not examine, change, or use another person's files, output, or user name without explicit authorization.

Users shall not connect unauthorized equipment to the network or to a computer connected to the network.

Users shall not use the City network to gain unauthorized access to any computer system.

System passwords, including power-on, and/or network login must be provided upon request to technology staff for use in diagnosing and repairing system problems.

L. Failure to Respect Resource Limits

Users shall not download large files unless absolutely necessary. If necessary, users shall download the file at a time when the system is not being heavily used and immediately remove the file from the system's server to their personal computer.

Users shall not post chain letters or engage in "spamming." Spamming is sending an annoying or unnecessary message to a large number of people.

Users shall subscribe only to discussion groups, chat rooms, or mail lists relevant to their specific job or project or professional/career development.

M. **Internet Safety**

Users shall not visit Internet sites that contain obscene, pornographic, hateful or other objectionable materials; and shall not send or intentionally receive any material that is obscene or defamatory or which is intended to annoy, harass or intimidate another person. Because the Internet is a global network, it is impractical to control the content available to any one user. There exists, and you may likely discover, information that is inappropriate, controversial, or obscene. The City promotes the responsible use of the information that exists on the Internet. By the provision of an access point to the Internet, the City is committed to the belief that the value of the tool outweighs the risks that users may access material that is not consistent with the City's mission of providing quality government services.

User access, shall be filtered in an attempt to block profane, obscene (pornography) or other inappropriate material. User activity and the operation of filtering protection measures may be monitored to ensure compliance with this policy. A system administrator may disable filtering to enable access for bona fide research or other lawful purposes.

Users should report to their immediate supervisor any message they receive that is inappropriate or makes them feel uncomfortable.

N. **Engaging in Illegal Activities**

Users shall not use or permit the use of the City computer system to engage in any illegal act.

Users shall not attempt to gain unauthorized access to the City computer system or to any other computer system through the City computer system, or go beyond their authorized access. This includes providing account information to another user, attempting to log in through another person's account or accessing another person's files. These actions are illegal, even if only for the purposes of "browsing".

Users shall not make deliberate attempts to disrupt computer system performance or destroy data by spreading computer viruses or by any other means. These actions are illegal.

O. **Using Inappropriate Language**

Restrictions against inappropriate language apply to public messages, private messages, and material posted on Web pages.

Users shall not make or post indecent remarks, proposals, or materials.

Users shall not use obscene, profane, lewd, vulgar, rude, inflammatory, threatening, or disrespectful language.

Users shall not post information that, if acted upon, could cause damage or a danger of disruption.

Users shall not engage in personal attacks, including prejudicial or discriminatory attacks.

Users shall not harass another person. Harassment is persistently acting in a manner that distresses or annoys another person. If users are told by others to stop sending them messages, they must stop.

Users shall not knowingly or recklessly post false or defamatory information about a person or organization.

P. Failure to Respect Privacy

Users shall not publicize a message that was sent to them privately without permission of the person who sent them the message nor post private information about another person.

Q. Copyright Infringement

Downloading of non-executable files for business use is permitted. These would include reports, Adobe pdf's, information flyers, etc., from other institutions or government agencies that are needed by the City.

Executable software, such as downloadable screen savers – demo software – or software upgrades (excluding anti virus updates that are approved by Information Technology Department), shall not be downloaded without first consulting with Information Technology staff. This type of software may contain viruses, which could harm the City's network. If such a file is required, it may be done by the Information Technology staff that can check the file for any infection.

Users shall not upload, download, or otherwise transmit commercial software or any copyrighted materials, except to the extent expressly permitted by the copyright owner. Users shall respect the rights of copyright owners. Copyright infringement occurs when an individual inappropriately reproduces a work that is protected by a copyright. If a work contains language that specifies acceptable use of that work, the user should follow the expressed requirements. If users are unsure whether or not they can use a work, users should request permission from the copyright owner. Because the extent of copyright protection of certain works found on the Internet is unclear, users shall make a standard

practice of requesting permission from the holder of the work if their use of the material has the potential of being considered an infringement.

Only City licensed software may be installed on any city-owned computer systems. No City owned software may be copied for use on other computer systems unless this right is specifically granted in the City's license agreement. Software may only be installed by Technology Staff members.

The Information Technology Director shall maintain records on software licensed on a city-wide basis. Department Heads shall maintain licensing records for all other software installed on department computers.

R. **Enforcement**

Employees who violate any of the guidelines set in the policy are subject to disciplinary action up to and including discharge. Other users who violate any of the guidelines set in the policy shall have their access terminated. The City also retains the right to report any illegal violations of local, state or federal law to the appropriate authorities.

S. **Disclaimer**

The City makes no warranties of any kind regarding technical services, either express or implied, that the functions or the services provided by or through the City computer system shall be error-free or without defect. The City shall not be responsible for any damage users may suffer, including but not limited to, loss of data or interruptions of service. The City is not responsible for the accuracy or quality of the information obtained through or stored on the system. The City shall not be responsible for financial obligations arising through the unauthorized use of the system.

Access to the computer system is provided for business and business related purposes only. The City has taken precautions to restrict access to controversial materials. However, it is impossible to restrict access to all controversial materials. The City cannot be held responsible for materials available on the network.

Users should use discretion/caution in communication with others on the City's computer system including its internet access. The City assumes no responsibility for any personal losses you may incur while using the system.

The City shall not be responsible for any misuse of City computer systems. Persons found to be misusing the City computer systems shall be responsible for any costs or damages sustained by the City or a third party

and those persons shall be required to indemnify the City for any claim against the City by a third party. City Employees may be subject to disciplinary action up to and including discharge.

7.15 Dress Code

The City's public image is affected by its employees' personal appearance and hygiene. People judge the City's services partially based on the image projected by the employees. Therefore, all employees shall dress appropriately for the job and maintain good personal hygiene in a manner that creates a positive impression on the people they serve as well as their co-workers. Office employees shall wear business-like attire. Employees furnished uniforms by the City shall wear the complete uniform while on the job. Employees are referred to the City Manager's Administrative Order (See Appendix T) for further guidance on appropriate dress.

7.16 Code of Ethics

The Code of Ethics is intended to provide ethical guidelines for City Councilors, employees and Council appointed Board and Commission members that are responsive to the public needs and preclude even the appearance of impropriety in the performance of their duties. All City Councilors, employees and Council appointed Board and Commission members have an obligation to conduct their official duties in a manner that serves the public interest, upholds the public trust and protects the City's resources. To this end, City Councilors, employees and Council appointed Board and Commission members have a responsibility to:

1. Perform their duties to the very best of their abilities, treating the public and each other in a courteous manner that is fair and equitable, without regard to race, color, gender, age, religion, national origin, disability, political affiliation, or any other factor unrelated to the impartial conduct of City business.
2. Demonstrate integrity, honesty, and ethical behavior in the conduct of all City business.
3. Ensure that their personal interests do not come into conflict with their official duties, resulting in a real conflict of interest or the appearance of a conflict of interest when dealing with vendors, customers, and other individuals doing business or seeking to do business with the City.
4. Ensure that they do not accept any gift, favor or thing of value that may tend to, or be reasonably perceived to, influence the discharge of their duties, or grant any improper favor, service or thing of value in the discharge of their duties. This shall include the acceptance of a gift from a person who has interests that may be substantially affected by the performance of the employee's official duties under circumstances where timing and nature of the gift would cause a reasonable person to question the employee's impartiality in the matter

affecting the donor. This prohibition shall not apply to the acceptance of any gift, favor or thing of value that benefits the City and/or the community as a whole.

5. Ensure that information concerning the property, government or affairs of the City is held confidential, disclosed only with proper legal authorization, and never to advance the financial or other special interest of themselves or others.
6. Ensure that all City resources, including City funds, equipment, vehicles and other property, are used in strict compliance with City policies and solely for the benefit of the City.
7. Avoid any behavior that could fall under the definitions of misconduct in Section 7.2 Discipline of the City's Comprehensive Employee Management System.

Councilors, Board and Commission members, Department Heads, and supervisors must take a leadership role in the promotion and execution of the Code of Ethics. All City officials and employees have a responsibility to place cooperation, trust, and respect at the head of all they do.

7.17 Freedom of Information Act (FOIA)

City employees should have a solid understanding of the Virginia Freedom of Information Act (Code of Virginia §§ 2.2-3700 et. seq.) due to the fact that so much of the work done by City employees may be subject to FOIA requests.

The media and general public, upon request, will be provided access to all records or proceedings which have been deemed to be of a public nature, which include (partial list only):

1. *Written records of City Council meetings;*
2. *City contracts, ordinances, and resolutions;*
3. *Financial documents such as the budget, Capital Improvement Program, copies of invoices, revenues, and expenditures;*
4. *Names, dates of employment, and the salaries of public officials over \$10,000;*
5. *Factual portions of reports, memos, letters, and e-mails which do not address a personnel claim or litigation. Conclusions, opinions, or recommendations are not required to be released;*
6. *Records of any formal City Council action;*
7. *Completed project files.*

Any request for public records, whether written or oral, should be considered a FOIA request. A requestor need not mention or identify the Freedom of Information Act in order to impose the requirements of the Act. When in doubt as to whether or not a request involves FOIA, an employee should inquire through

their chain of command to the designated FOIA Officer who may thereafter consult with the Office of the City Attorney.

Requests for information received by City staff should immediately be forwarded to the City's designated FOIA Officer for review. In responding to any request for public information, time is of the essence. An employee should not delay in forwarding a FOIA request to the City's designated FOIA Officer. Failure to provide a timely response could result in a waiver of any applicable FOIA exclusion.

If a court finds that an official or employee knowingly violates FOIA by failing to provide documents to which the requestor is entitled, the official or employee can be fined up to \$1,000 for an initial violation and up to \$2,500 for a second or subsequent violation. As a matter of law, such fines must be paid by the individual (not from public funds). The City may also be responsible for paying the requestor's legal fees.

EMPLOYEE SAFETY AND HEALTH

The Employees' Safety Manual, adopted by Council June 14, 1983, as amended is hereby made a part of the Comprehensive Employee Management System. Copies are provided to employees during Orientation and are also available from the Administration Director. Reference should also be made to the Safety Committee and Accident Review Board By-Laws for policy and procedures regarding employee safety. (See Appendix U)

8.1 Workplace Violence Policy

A. Purpose

The City of Winchester (herein after the City) and the Winchester Public Schools (herein after the Schools) recognize that violence at work, family violence, and any other violence can affect any employee's work performance. The purpose of the policy is to reduce the possibility of death or injury as a result of workplace violence and to foster a work environment of respect and healthy conflict resolution. Nothing is more important to the City and School than the safety and security of its employees. Threats, threatening behavior, or acts of violence against employees, visitors, guests, or other individuals by anyone on City or Schools property will not be tolerated. Violations of this policy by employees will lead to disciplinary action which may include discharge, arrest, and prosecution. This is a zero tolerance policy.

B. Definitions

1. Violence is an action of physical force, harassment or intimidation.
2. Threat is the expression of intent to cause physical or mental harm. An expression constitutes a threat without regard to whether the party communicating the threat has the present ability to carry it out and without regard to whether the expression is contingent, conditional or future.
3. Physical attack is unwanted or hostile physical contact such as hitting, fighting, pushing, shoving, throwing objects or using a weapon.
4. Property damage is intentional damage to property which includes property owned by the City, Schools, employees, visitors or vendors.
5. Harassment is to intimidate or annoy persistently.

C. **Procedures**

The City and Schools recognize that an employee can be exposed to many different types of violence including between employees, between employee and supervisor, between employee and customer, or between an employee and a family member or former friend. It further acknowledges that many of its employees are exposed to violence by the very nature of their jobs. The City and Schools assert that any acts of violence are not acceptable and establish the following procedures to take preventative and/or corrective action:

1. Any employee who makes threats, exhibits threatening behavior, or engages in violent acts on City or Schools property shall be removed from the premises as quickly as safety permits, and shall remain off the premises pending the outcome of an investigation. The City or Schools will initiate an appropriate response. This response may include, but is not limited to, disciplinary action and/or criminal prosecution of the person or persons involved.
2. The unauthorized possession or use of firearms or other weapons to include, but not limited to, items manufactured to resemble a weapon by employees on City and Schools property or during working hours is strictly prohibited. Violation of this shall result in suspension and/or discharge.
3. Similar situations could occur in employee contacts with the public. While the City and Schools have a strong commitment to customer service, employees should not be subjected to abuse. A supervisor should be requested to intervene when a customer is abusive. If there is concern over the possibility of physical violence, it should be immediately called to the attention of a supervisor or another employee so measures may be implemented to reduce the threat and protect the employee. These include calling the Police Department (911 or 9911) and/or removing the customer from the premises.
4. All employees who apply for or obtain a protective or restraining order which lists the City or Schools locations as being protected areas, must provide to the Administration Director and the Department Head or Principal a copy of the petition and declarations used to seek the order, a copy of any temporary protective or restraining order which is granted, and a copy of any protective or restraining order which is made permanent.
5. No existing City or School policy, practice, or procedure should be interpreted to prohibit decisions designed to prevent a threat from being

carried out, a violent act from occurring or a life threatening situation from developing.

6. All City and School personnel are responsible for notifying the Administration Director, Department Head or Principal of any threats which they have witnessed, received, or have been told that another person has witnessed or received. Even without an actual threat, employees shall also report any behavior they have witnessed which they regard as threatening or violent, when that behavior is job related or might be carried out on a City or School controlled site, or is connected to City or School employment. Employees are responsible for making this report regardless of the relationship between the individual who initiated the threat or threatening behavior and the person or persons who were threatened or were the focus of the threatening behavior. If the Administration Director, Department Head or Principal is not available, employees shall report the threat to the supervisor. A Workplace Violence Incident Report (See Appendix V) is provided to employees at all worksites.
7. Any report of violence will be handled in a confidential manner, with information released only on a need-to-know basis. Employees who report real or perceived violent behavior or violations of this policy will not be retaliated against or subjected to harassment.

D. Program Components

The City and Schools shall insure the following components of an effective program of preventing workplace violence (as outlined in the U.S. Department of Labor's OSHA Guidelines for Preventing Workplace Violence) are implemented and maintained:

1. Management commitment and employee involvement
2. Policy development and implementation
3. Worksite security and records analysis
4. Hazard prevention, control, and workplace adaptation
5. Training and education
6. Evaluation of program

8.2 Substance Abuse Policy

A. Purpose

The City of Winchester is committed to the safety and well being of employees and the public. The abuse of drugs or alcohol in the City workplace jeopardizes the productivity of employees, poses a safety and

health threat to employees and the public, and erodes public trust and confidence in the City government.

B. Objectives

1. Provide a workplace free of alcohol and drugs.
2. Perform alcohol and drug testing as a responsible employer.
3. Protect the City's employees and the public from the harmful effects of alcohol and drugs.
4. Comply with U.S. Department of Transportation Requirements for Public Transportation Employees (49 CFR Part 655) and Employees Requiring Commercial Licenses (40 CFT Part 382).
5. Comply with the Drug-Free Workplace Act of 1988 (49 CFR Part 29 and 49 CFR Part 32).

C. Policy

In compliance with the Drug-Free Workplace Act of 1988 and Omnibus Transportation Employee Testing Act of 1991, no employee shall do any of the following while on City premises or while conducting City business:

1. use, sell, dispense, possess, or manufacture alcohol or illegal drugs;
2. be under the influence of alcohol, illegal drugs; or
3. have alcohol or illegal drugs present in their bodies.

All City employees are hereby notified that the City is committed to providing its employees with a drug and alcohol free work environment. As a condition of employment, all employees are deemed to have consented to the drug and alcohol testing that is required under this policy. **All violations will result in discharge unless otherwise noted.**

Any employee who is convicted of a drug violation must notify the City in writing, within five days.

In order to meet all Federal substance abuse policy regulations for the City's personnel population, there will exist two mutually exclusive groups within the City structure that are governed under two separate policies:

1. Transit System Mandated Safety Sensitive positions who are primarily covered by the Omnibus Transportation Employee Testing Act of 1991. (See Attachment W for the Winchester Transit System Substance Abuse Policy);
2. Non-Transit City Employee positions are covered by the Drug Free Workplace Act of 1988. (See Attachment X for the Winchester Employee Substance Abuse Policy);

Referral to the specific policy will provide all procedures, practices, and policy governing your employment with the City of Winchester, as amended.

D. Employees Affected

This policy applies to any employee of or applicant for the City of Winchester in any full-time, part-time, classified, non-classified, temporary, probationary, on-call or other position that follows the City's personnel policies and which is a mandated safety-sensitive or a non-mandated safety-sensitive position as these terms are defined herein.

E. Types of Testing

Submission to Testing—All employees and applicants shall submit to testing for the presence of drugs and alcohol in the following situations and under the following circumstances:

1. Pre-employment Testing
2. Reasonable Suspicion
3. Random Testing
4. Post Accident Testing
5. Return to Duty Testing
6. Follow-up Testing or Periodic Testing

F. Disciplinary Action for Violation of Substance Abuse Policies

All violations of the City's *Winchester Transit System Substance Abuse Policy* and *Winchester Employee Substance Abuse Policy* will be either denied employment or immediately discharged from duty, unless otherwise noted.

1. The City does not recognize any second chance policy.
2. Any employee covered under either policy and commits or is convicted of a drug or alcohol related felony shall be terminated, irrespective of whether the offense took place while the employee was on City premises or conducting City business.
3. Any employee covered under either policy commits or is convicted of a drug or alcohol related misdemeanor shall be terminated if the offense took place while the employee was on City premises or conducting City business or if the offense is reasonably related to the employee's fitness to perform the employee's job responsibilities.
4. Employees who are not in violation of this policy are not subject to disciplinary action as a result of voluntarily seeking EAP assistance for alcohol or drug abuse problems, except as noted in section B above. However, employees who violate this policy will be disciplined in accordance with the policy irrespective of whether or not they have

received or are receiving voluntary assistance for alcohol or drug abuse problems through the EAP. Additionally, voluntary involvement in the EAP shall not be considered a mitigating factor in determining the appropriate disciplinary action to be taken for a violation of this policy.

G. Consent for Testing

As a condition of employment, all employees are deemed to have consented to the drug and alcohol testing that is required under this policy. Employees who refuse to be tested, or who do not cooperate with a test shall be disciplined as if they failed the test and are subject to additional disciplinary action for insubordination.

H. Legitimate Use of Drugs Affecting Test Results

Any employee who conclusively establishes by competent medical evidence that a positive drug test result was caused by the presence of a prescription drug which the employee was taking in accordance with a valid prescription, or as the result of the use of a non-prescription drug which the employee was taking properly for a bona fide medical purpose, shall not be deemed to have violated this policy because of failing a test for that drug.

I. Confidentiality of Test Results

The result of any drug or alcohol test that is performed pursuant to this policy shall be confidential and shall be made known only to those City employees who are directly involved in any disciplinary decision made as a result of such test results or in any grievance arising out of such disciplinary decision. The result of any drug or alcohol test that is performed pursuant to this policy shall not be used in any criminal proceeding against the tested employee; however, in appropriate circumstances, any other information obtained by the City regarding an employee's violation of this policy may be used in a criminal proceeding against the employee.

J. Employee Assistance Program

The City maintains an Employee Assistance Program (EAP) to provide help to employees who are impaired by alcohol or drugs, or other personal or emotional problems. Any employee who has a drug or alcohol-related problem is encouraged to voluntarily seek treatment through the City's EAP or through a treatment program or facility of his own choice, before the problem affects their employment. However, use of the EAP will not be a defense to the imposition of disciplinary action if the employee engages in conduct constituting a violation of either this policy or of the City's Disciplinary Action Policy.

K. **Notice of the Substance Abuse Policy**

The City shall provide written notice of this policy to all employees and applicants.

8.3 **Exposure Control Plan**

A. **Purpose**

The purpose of the Exposure Control Plan (Appendix CC) is to establish procedures for City management and employees to minimize the risk of contracting and/or spreading bloodborne diseases, airborne transmissible diseases and other potentially infectious materials, including but not limited to: HIV, Hepatitis B, Hepatitis C, Syphilis, Tuberculosis, Measles, Chickenpox, Mumps, and Rubella.

The Infection Control Plan shall meet the guidelines of the following federal and state regulations and best practices:

- 1.) Virginia Occupational Safety and Health (VOSH) Standard on Occupational Exposure to Bloodborne Pathogens, 29 CFR Part 1910.1030,
- 2.) National Fire Protection Association (NFPA) 1581 Infection Control Standard,
- 3.) Centers for Disease Control recommended practices, and
- 4.) Current applicable federal and state regulations.

This policy applies to all City employees however specific departments and positions have been identified to be at-risk and shall conform to this policy due to the nature of their job tasks and exposure risk. Departments must follow in full the direction of the City's Exposure Control Plan.

The City of Winchester is committed to the safety and well being of its employees and the public. A copy of the Exposure Control Plan shall be available in each department with duplicates being available for individuals upon request.

8.4 **Hazardous Material Communication Standard**

A. **Purpose**

In order to comply with the Virginia Occupational Health and Safety Standard, 1910.1200, Hazard Communication, the following written Hazard Communication Program has been established for the City of Winchester.

B. **Covered Employees**

All employees within all divisions of the City are covered under this Standard. The written program will be available in the Administration Department, and Department Heads' office for review by any interested employee.

C. Requirements

1. Container Labeling

No chemical will be accepted from a manufacturer or distributor unless properly labeled with identity of substance and appropriate hazard warnings.

The supervisor at each work-site will verify that all containers received for use will:

- i. be clearly labeled as to the contents;
- ii. note the appropriate hazard warning; and
- iii. list the name and address of the manufacturer / importer / or responsible party.

It is the policy of the City that no container will be released for use at any work-site until the above data is verified.

The supervisor will also ensure that all secondary containers are properly labeled with identity of substance and appropriate hazard warnings.

2. Material Safety Data Sheets (MSDS)

Copies of MSDSs for all hazardous chemicals to which employees of the City may be exposed shall be kept in the Risk Manager's office and at the work-site. MSDSs will be available to all employees for review during each work shift. If MSDS are not available or new chemicals in use do not have MSDS, please immediately contact the supervisor or the Administration Director. The City's Purchasing Agent shall insure that all chemical requisitions include an MSDS submittal requirement. No chemical will be accepted from a manufacturer or distributor unless accompanied by an MSDS or one is currently on file.

3. Employee Training and Information

Prior to starting work each new employee will attend an orientation program at the Administration Department and work-site to receive information and training on the following:

- a. an overview of the requirements contained in the Hazardous Material Communication Standard (See Appendix BB);
- b. chemicals present at the work-site;
- c. location and availability of the written Hazardous Material Communication Standard;
- d. physical and health effects of the hazardous chemicals;

- e. methods and observation techniques used to determine the presence or release of hazardous chemicals in the work area;
- f. how to lessen or prevent exposure to these hazardous chemicals through usage of personal protective equipment;
- g. steps the City has taken to lessen or prevent exposure to these chemicals;
- h. safety emergency procedure to follow if they are exposed to these chemicals; and
- i. how to read labels and review MSDSs to obtain appropriate hazard information.

All current employees will attend a training class on the above. After attending the training class, each employee will sign a form to verify that he attended the training, received written materials, and understands the City's policies on the Standard.

Prior to a new hazardous chemical being introduced into any division, each employee of that division will be given information as outlined above.

The Administration Director and work-site supervisors are responsible for training all new and current employees on the City's program.

4. List of Hazardous Chemicals

Further information on each noted chemical can be obtained by reviewing Material Safety Data Sheets located in the Purchasing/Risk Manager's office and each work-site.

5. Hazardous Nonroutine Tasks

Periodically, employees are required to perform hazardous nonroutine tasks. Prior to starting work on such projects, each affected employee will be given information by their supervisor about hazardous chemicals to which they may be exposed during such activity.

This information shall include:

- a. explanation of the non-routine task and the specific chemical hazards associated with it;
- b. protective/safety measures the employee can take; and
- c. measures the City has taken to lessen the hazards including ventilation, respirators, presence of another employee, and emergency procedures.

6. Chemicals in Unlabeled Pipes

Occasionally, work activities are performed by employees in areas where chemicals are transferred through unlabeled pipes.

Prior to starting work in these areas, the employee shall contact the supervisor for information on the chemicals in the pipes, the potential hazards, and safety precautions which should be taken.

7. Informing Contractors

It is the responsibility of the appropriate City Department Head to provide the contractor the following information:

- a. hazardous chemicals to which their employees may be exposed while on the job site; and
- b. precautions the employees may take to lessen the possibility of exposure by usage of appropriate protective measures.

This information may be provided via the Invitation to Bid or in writing once the contract is awarded.

8.5 Confined Space Entry Policy

A. Purpose

Pursuant to Virginia Occupational Safety and Health Act Standard 1910.146, Virginia Confined Space Entry Standard for General and Construction Industries, all employees who may be exposed to the hazards of entry into confined spaces must be covered by this policy. The purpose of the policy is to reduce the possibility of death or injury as a result of entrapment or exposure to a hazardous atmosphere in a confined space.

B. Definitions

1. Confined space - any space not intended for continuous employee occupancy, having a limited means of egress, and which also is subject to either the accumulation of an actual or potentially hazardous atmosphere. Confined spaces generally include, but are not limited to, storage tanks, process vessels, bins, boilers, ventilation or exhaust ducts, sewers, manholes, underground utility vaults, digesters, ovens, pulpers, tunnels, pipelines, and open top spaces more than four feet in depth such as pits, tubs, vaults and vessels.
2. Entry Permit - the employer's written authorization for employee entry into a confined space under the conditions for a stated purpose during a specified time.
3. Hazardous atmosphere - an atmosphere presenting a potential for death, disablement, injury or acute illness from one or more of the following causes:
 - a. A flammable gas, vapor or mist in excess of 10% of its lower explosive limit (LEL)

- b. An oxygen deficient atmosphere containing less than 19.5% oxygen by volume or an oxygen enriched atmosphere containing more than 23% oxygen by volume
- c. An atmosphere concentration of any substance listed in Subpart Z of Part 1910 Standards for General Industry above the listed numerical value of the permissible exposure limits (PEL)
- d. A condition immediately dangerous to life or health as defined in the Confined Space Entry Standard.

C. **Procedure**

Any time an employee of the City of Winchester is required to enter a confined space, the City Safety Officer or designee shall ensure the following steps are taken:

1. A permit is issued, signed and maintained at the job site by the supervisor. The permit shall include a record of atmospheric tests, minimum acceptable atmospheric condition allowed by the Confined Space Entry Standard, last calibration date of the testing device and the specific work to be done. The permit shall be returned to the City Safety Officer or designee at the completion of work.
2. Atmospheric testing is completed and recorded on the permit prior to entry and hourly thereafter.
3. An attendant and rescue teams with rescue equipment are available and notified as required.
4. Entrants are trained in working in a confined space.
5. All pumps and lines into the space have been disconnected or blinded as required.
6. All mechanical and electrical equipment has been locked out as required.
7. The confined space has been emptied or flushed as required.
8. Mechanical ventilation and /or personal protective equipment is in use as required.

D. **Training**

1. All employees required to enter confined spaces shall be trained in the City of Winchester's confined space entry procedures.

2. At least one employee serving on any entry team shall be trained annually in CPR and proper rescue procedures.

8.6 Personal Protective Equipment

A. Purpose

In order to comply with the Virginia Occupational Health and Safety Standard, 29 CFR Part 1910, Subpart I the following written program has been established for the City.

B. Covered Employees

All employees within all divisions of the City are covered under this Standard that work with personal protective equipment, i.e. eye, face, hand, head, and foot protection.

C. Requirements

1. Foot Protection, 29 CFR 1910.136:

All departments that perform responsibilities requiring the use of foot protection are required to provide all applicable employees with proper ANSI rated foot protection.

- Foot protection must comply with ANSI Z41-1991;
- New employees - each department will purchase foot protection for the applicable employee and use a "Safety Shoe / Employee Authorization Form" with prior approval from the Department Head;
- Existing employees – upon request, the Department Head will be required to review your request for new safety shoes. Typically, safety shoes may be replaced once a year or in cases of extreme wear, may be replaced twice a year;
- Departmental reporting – Departments should maintain safety shoe records and provide Administration with a copy of the authorization form for personnel records;
- Termination or Voluntary Resignation – Employees who receive new safety shoes six months prior to departure from the City will be billed the pro-rated cost of the safety shoes.

2. Eye or Face Protection, 29 CFR 1910.133:

All departments that perform responsibilities requiring the use of eye protection are required to provide all applicable employees with proper ANSI rated eye and face protection

- Eye and face protection must comply with ANSI Z87.1-1989;
- New employees – each responsible City department will purchase eye or face protection for the applicable employee;

- Existing employees – upon request, the Department Head will be required to review your request for new or modified eye or face protection;
- Selection – each department will be responsible for the proper eye protection for all job functions (see Eye and Face Protection Selection Chart within 29 CFR Part 1910, Subpart I);
- Prescription eye protection – each affected employee who wears prescription lenses while engaged in operations that involve eye hazards shall wear eye protection that either incorporates the prescription in its design, or shall wear eye protection that can be worn over the prescription lenses without disturbing the proper position of the prescription lenses or the protective lenses. Upon further review by the Department Head, the City may purchase these special protective lenses;
- Termination or Voluntary Resignation - Employees who receive new special eye protection six months prior to departure from the City will be billed the pro-rated cost of the eye protection.

3. Head Protection 29 CFR 1910.135:

All departments that perform responsibilities requiring the use of head protection are required to provide all applicable employees with proper ANSI rated head gear.

- Head protection must comply with ANSI Z89.1-1986;
- New employees – each responsible City department will purchase head protection for the applicable employee;
- Existing employees – upon request, the Department Head will be required to review your request for new or modified head protection;
- Protective head protection designed to reduce electrical shock hazards shall be worn by each such affected employee when near exposed electrical conductors which could contact the head;
- Termination or Voluntary Resignation - Employees are required to return head protection upon departure from the City.

4. Hand Protection 29 CFR 1910.138:

All departments that perform responsibilities requiring the use of hand protection are required to provide all applicable employees with proper ANSI rated hand gear.

- Hand protection must comply with ANSI Z89.1-1986;
- Selection – each department is responsible for the selection of the proper hand protection for the various job functions. OSHA & VOSH is unaware of any gloves that provide protection against all potential hand hazards, and commonly available glove material provide only limited protection against many chemicals. Therefore it is important to select the most appropriate glove for a particular application and to determine how long it can be worn, and whether it can be reused;

- New employees – each responsible City department will purchase head protection for the applicable employee;
- Existing employees – upon request, the Department Head will be required to review your request for new or modified hand protection;
- Protective hand protection designed to reduce electrical shock hazards shall be worn by each such affected employee when near exposed electrical conductors which could contact the head;
- Termination or Voluntary Resignation – Employees are required to return hand protection upon departure from the City.

5. Employee Training, 29 CFR 1910.132

All applicable departments, with assistance from the Administration department, are required to provide the following training for each applicable employee:

- a. When PPE is necessary;
- b. What PPE is necessary;
- c. How to properly adjust and wear PPE;
- d. The limitation of the PPE
- e. The proper care and maintenance, useful life, and disposal of the PPE;
- f. Retrain all applicable employees when operations change or types of PPE change; and

The Department Head and work-site supervisors are responsible for training all new and current employees on the City's program and the OSHA standard. Furthermore, the Department Head has the authority to retrain any employee they see fit or does not demonstrate an understanding of PPE. Each Department Head will be responsible for verifying that each employee has received and understood the required training through a written certification that contains the name of each employee, dates of training, and that identifies the subject of the certification. Please forward a copy to Administration for each Employee's personnel record.

8.7 Respiratory Protection Standard

A. Purpose

In order to comply with the Virginia Occupational Health and Safety Standard, 1910.134, Respiratory Protection, the following written program has been established for the City.

B. Covered Employees

All employees of the City are covered under this Standard that work with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, or vapors. The written program is tasked with the primary objective of preventing any atmospheric contamination. A copy of the written programs is available in the Risk Manager's office or each applicable Department Heads' office for review by any interested employee.

C. Requirements

1. Written Standard

All departments that perform responsibilities requiring the use of respirators under the 29 CFR 1910.134, are required to establish, with the Risk Manager's assistance, a written comprehensive respiratory protection program. Each department will retain a copy for periodic updates, record maintenance, training purposes, and resource planning.

2. Respirator Selection

Respirators will be selected based on the hazards to which the workers are exposed. A thorough review of the MSDS for all chemicals will provide the best information to assess handling instructions, health hazards, and PPE requirements for employees.

- Respirator selection shall be made based on the guidance of the American National Standard Practices for Respiratory Protection Z88.2-1969
- Breathing gas containers shall be marked in accordance with American National Standard Method of Marking Portable Compressed Gas Containers to Identify the Material Contained, Z48.1-1954; Federal specification BB-A-1034a, June 21, 1968, Air, Compressed for breathing Purposes; or Interim Federal Specification GG-B-00675b, April 27, 1965, Breathing Apparatus, Self-Contained.
- Air quality for compressed air, compressed oxygen, liquid air, and liquid oxygen used for respiration shall be of the highest purity. Oxygen shall meet the requirements of the U.S. Pharmacopoeia for medical or breathing oxygen. Breathing air shall meet at least the requirements of the specification for Grade D breathing air as described in Compressed Gas Association Commodity Specification G-7.1-1966.

3. Employee Training

All applicable departments, with assistance from the Administration department, are required to provide the following training for each applicable employee:

- a. attend annual mandatory training;
- b. training must be given prior to requiring an employee to use a respirator in the workplace;

- c. every respirator wearer will receive fitting instructions including demonstrations and practice in how the respirator should be worn, how to adjust it, and maintenance.

The Administration Director and work-site supervisors are responsible for training all new and current employees on the City's program and the OSHA standard.

4. Respirator Maintenance, Storage, and Inspection

The maintenance, storage, and inspection of each respirator is critical for the performance, integrity, and reliability of the equipment.

- All respirators shall be stored in a clean, safe, accessible location protected against dust, sunlight, heat, extreme cold, excessive moisture, or damaging chemicals;
- Routinely used respirators should be cleaned and disinfected as frequently as necessary to insure proper protection to the wearer. Respirators maintained for emergency use shall be cleaned and disinfected after each use;
- Each department, or facility is required to maintain a maintenance schedule and records of inspection;
- All respirators shall be routinely inspected before and after each use. Respirators that are not routinely used or stored for emergency situations shall be inspected after each use, or at least monthly;
- Self contained breathing apparatus shall be inspected monthly. Air and oxygen cylinders shall be fully charged according to the manufacturer's instructions. Regulator and warning functions shall work properly;
- No attempt should be made to replace components or to make adjustments or repairs beyond the manufacturer's recommendations.

5. Medical Evaluation

No employee shall be assigned tasks requiring the use of a respirator unless it has been determined that they are physically able to perform the work and use the equipment.

- a. The medical questionnaire is designed to advise the City of an employee's medical abilities;
- b. The physician or licensed health care professional (PLHCP) must read the applicable respiratory protection policy governing the employee;
- c. The medical questionnaire will be administered confidentially during the employee's normal working hours or a time and place convenient to the employee;
- d. The employee is encouraged to discuss the questionnaire and examination results with the PLHCP;
- e. Employee shall advise the Department Head of any post-evaluation ailments that may exclude the employee from successfully performing assigned tasks that require respiratory protection;

- f. Medical evaluations should be reviewed periodically;
- g. The City is responsible to ensure medical re-examination provided an employee answers positive to any question among questions 1 through 8 in Section 2, Part A, or whose initial medical examination demonstrates the need for a follow-up medical examination;
- h. The follow-up medical examination may include any tests, consultations, or diagnostic procedures that the PLHCP deems necessary to make a final determination;
- i. PLHCP should be requested to make a written recommendation as to the employee's physical ability to adhere to the respiratory protection standard, job responsibilities, and assigned respiratory equipment.

6. Respirator Fit Testing

Fit testing will be performed on all employees to ensure a quality seal and appropriate respirator sizing of equipment to their facial features. Before an employee is required to wear a respirator for assigned tasks, the employee must be fit tested with the exact make, model, style, and size that will be used.

- An annual fit testing must be performed by a pre-determined agency, or internal department, i.e. Winchester Fire & Rescue Department, in compliance with federal and industrial respiratory standards;
- Each applicable department is required to schedule appointments and maintain records of employee fit testing;
- Fit testing must be performed whenever there are changes in the user's physical condition that could affect respirator fit (i.e. facial scarring, dental changes, cosmetic surgery, or an obvious change in body weight);
- Employees will be fit tested specifically for their types of respirators required to perform assigned tasks;
- Facial hair may disrupt the fit testing results and quality of seal. Departments are encouraged to review a facial hair policy in accordance to employees successfully meeting the fit testing requirements ;
- Employees using a negative or positive pressure tight-fitting face piece must pass an appropriate quantitative fit test (QNFT) or qualitative fit test (QLFT);
- QLFT may only be used for negative pressure air-purifying respirators that must achieve a fit factor of 100 or less;
- QNFT may be used under the following conditions:
 - Tight-fitting half face piece, passes when results measure equal to or greater than 100;
 - Tight-fitting full face piece passes when results measure equal to or greater than 500.

7. Informing Contractors

It is the responsibility of the appropriate Department Head or their assigned employee to provide the contractor the following information:

- respiratory situations to which their employees may be exposed while on the job site; and
- provide notification of training to meet OSHA 1910.134 standard.

This information may be provided via the Invitation to Bid or in writing once the contract is awarded.

8.8 City Identification Cards

A. Purpose

All City employees and designated individuals are required to wear a City-issued identification card in accordance with the following procedures. City identification cards help maintain security by identifying authorized personnel at City work sites and residential or commercial properties served by the City and may provide programmed access, as authorized, to secured areas in City facilities.

B. Procedures

1. Eligibility – The following individuals are eligible to receive a City identification card:
 - a) Elected and appointed City officials;
 - b) Employees officially employed by the City and currently carried on the City payroll;
 - c) Individuals providing volunteer or special services who are designated by their department head to receive a temporary City identification card.
2. Displaying City Identification Cards
 - a) All employees and designated individuals must wear City identification cards with the front of the card visible on the outside of their clothing when on duty, providing services, or accessing City facilities, except as indicated below.
 - b) City personnel in uniform with some form of their name and City identification (e.g. City seal) visible on their uniform are not required to wear a City identification card. However, they must carry a City identification card and display it upon request.

3. Maintenance and Control

- a) Only one City identification card shall be issued to each eligible person and it must not be transferred or loaned to any other individual.
- b) Upon termination of employment, contract, or volunteer services, all City identification cards must be returned to the City.
- c) Temporary City identification cards may be issued by the Administration Department to eligible persons for a limited time period (e.g., when an individual provides volunteer or special services) and must be returned to the City by the end of the authorized period.
- d) When vendors or contractors perform services in City facilities, the department which has retained their services must ensure that they display a company name badge which identifies who they are and for whom they are employed.
- e) When City employees encounter individuals in restricted areas of City facilities or work sites without appropriate identification and without authorized escorts, they should inquire whether the individuals needs assistance. Any suspicious or unusual behavior should be immediately reported to the police department and/or management personnel.

4. Processing Requests for Identification Cards

- a) All requests for identification cards are processed in the Administration Department at Rouss City Hall, except for Fire & Rescue and Police personnel.
- b) Identification cards will be issued by the Administration Department upon completion of a City Identification Request Form (Appendix CC).
- c) The City will provide identification card holders.

5. Replacement of City Identification Cards

- a) A replacement identification card is required for a name change, transfer to a different department, change to a

different distinguishing color code or for a lost, missing, stolen, or damaged card.

- b) Employees/individuals must immediately notify their department head or the Administration Department if their City identification card is lost, missing, stolen, or damaged.
- c) An old or damaged City identification card must be returned to the Administration Department before a replacement card is issued.
- d) The City reserves the right to charge individuals a fee of \$2.00 for identification cards that are lost, missing, stolen, or damaged under certain circumstances.
- e) New photographs are not needed when replacing City identification cards since all original photographs are retained on a computer database.

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APPENDIX W	Winchester Transit System Substance Abuse Policy
APPENDIX X	Winchester Employee Substance Abuse Policy
APPENDIX Y	Communicable Diseases List and Explanation
APPENDIX Z	Statement to Decline Hepatitis B Vaccination
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APPENDIX BB	Hazardous Material Communication Standard
APPENDIX CC	City Identification Request Form