



City of Staunton Personnel Policy Manual

Contents

1.1 INTRODUCTION AND OBJECTIVES	8
1.2 APPLICABILITY/SCOPE AND INTERPRETATION	8
1.3 DEPARTMENT DIRECTORS AND REGULATIONS	9
1.4 BENEFITS ARE NOT CONTRACTUAL	9
2.1 EMPLOYMENT-AT-WILL	10
2.2 EQUAL EMPLOYMENT OPPORTUNITY POLICY	10
2.3 AFFIRMATIVE ACTION AND RECRUITMENT PLAN	11
2.4 TYPES OF EMPLOYEES.....	12
2.5 APPLICATION FOR EMPLOYMENT	13
2.6 DISQUALIFICATION	13
2.7 RE-EMPLOYMENT	14
2.8 EVALUATION AND SELECTION FOR EMPLOYMENT	14
2.9 EMPLOYMENT OF NON-CITIZENS, VRS RETIREES, AND JUVENILES	14
2.10 HIRING.....	14
2.11 ORIENTATION AND TRAINING.....	15
2.12 INITIAL PERIOD OF EMPLOYMENT	15
2.13 HOURS OF WORK.....	15
2.14 OUTSIDE EMPLOYMENT	16
2.15 OCCUPATIONAL HEALTH.....	16
2.16 SERIOUS DISEASE	17
2.17 LAYOFF AND RECALL	18
Purpose	18
Definitions	18
Provisions	19
2.18 TERMINATION OF EMPLOYMENT	20
Date of Termination	20
Pay Upon Termination	20
Exit Interviews	21
Voluntary Resignations	21
Benefits, Service and Disability Retirements.....	21
Death in Service	22
Involuntary Terminations.....	22
Return of City Equipment	22
2.19 TRAVEL, REIMBURSEMENT AND USE OF CITY CREDIT CARDS	22
General Policy	22
Definitions	23
Place of Origin	23
Authorization to Travel	23
Funds for Travel and Subsistence Expenses	24
Submission and Audit of Travel Vouchers	24
Transportation	24
Lodging	25
Meals and Subsistence.....	26
Luncheon or Dinner Meetings.....	27
Special Provisions	27
Employer provided meals.....	27
Use of City Credit Cards/Credit Card Procedures.....	28

Credit Card Issuance.....	28
Credit Card Limits And Uses	28
Travel And Entertainment Expenses	29
Preparation of Monthly Credit Card Invoices.....	29
Deactivation of Cards	29
Disputes And Fraudulent Charges	29
Declined Purchasing Cards.....	30
Periodic Audits	30
Misuse of Cards.....	30
Credit Card Informational Contact	30
2.20 PERSONNEL FILES.....	30
2.21 AMERICANS WITH DISABILITY ACT POLICY	31
2.22 PREGNANT WORKERS POLICY	31
Accommodation Policy	31
Expression Policy	32
3.1 RESPONSIBILITIES	32
Management Responsibilities.....	32
Employee responsibilities.....	32
3.2 PERFORMANCE STANDARDS	33
3.3 UNACCEPTABLE CONDUCT.....	33
3.4 DRUG AND ALCOHOL-FREE WORKPLACE.....	36
Policy Statement.....	36
Purpose	36
Applicability.....	36
Employee and Supervisor Training.....	37
Prohibited Substances.....	37
Prohibited Conduct.....	38
Drug Testing Procedures	39
Alcohol Testing Procedures	40
Compliance with Testing Requirements	40
Treatment Requirements	41
Records Management.....	41
Employment Assessment	42
Consequences	42
Searches.....	43
FMCSA Covered Positions (CDL).....	43
City-Mandated Safety-Sensitive Covered Positions (Non-CDL).....	46
City Employees not covered by FMCSA or City Mandated Safety Sensitive Positions.....	49
3.5 CODE OF ETHICS/CONFLICT OF INTEREST	57
3.6 SOLICITATION.....	58
3.7 ACCEPTABLE USE OF INFORMATION TECHNOLOGY RESOURCES	58
Purpose	58
Policy.....	58
Information Statement.....	58
Compliance.....	62
Policy Exceptions	62
Responsible Department.....	62
3.8 POLITICAL ACTIVITY	63
3.9 DISCIPLINARY PROCEDURE	63
3.10 HARASSMENT	65
Definitions	66

Complaint Procedure.....	67
Mandatory Reporting Obligations.....	68
Investigation.....	68
Appeal	69
Compliance Officer.....	69
Retaliation	70
Right to Alternative Complaint Procedure.....	70
Prevention and Notice of Policy.....	70
False Allegations.....	70
Equal Employment Opportunity Commission	70
3.11 FACILITY ACCESS AND SECURITY	71
Identification/Access ID badges.....	71
General/Identification.....	71
Access.....	71
Responsibilities	72
The City Manager or designee shall be responsible for:.....	72
Information Technology Department shall be responsible for:	72
Departments in general shall be responsible for:.....	72
Employees shall be responsible for:	73
3.12 WORKPLACE VIOLENCE.....	73
Guidelines.....	73
Prohibited Behavior.....	74
Carrying, Display, and Use of Weapons	74
Reporting and Investigating Procedures.....	75
Confidentiality.....	75
3.13 DRESS CODE	75
3.14 SMOKE AND VAPE-FREE WORKPLACE.....	76
Purpose	76
Policy.....	76
Scope	76
Procedures	76
3.15 FREEDOM OF INFORMATION ACT (FOIA).....	77
3.16 MEDIA RELATIONS	77
Purpose	77
Policy Statement.....	78
City Spokespersons	78
Responding to Media Inquiries	78
Public Safety Inquiries	79
Litigation and Personnel Inquiries	79
City-Initiated Information to the Media	79
Personal Viewpoints.....	79
3.17 SOCIAL MEDIA	80
Purpose	80
Defining Social Media.....	80
Creating and Managing Social Media Sites	80
Public Posting Guidelines	81
Employee Guidelines for Personal Social Media Use.....	82
Records Retention	82
3.18 TELECOMMUTING.....	83
4.1 ADMINISTRATION.....	85
4.2 FULL-TIME EMPLOYMENT.....	85

4.3 PART-TIME EMPLOYMENT.....	86
Classification and Compensation of part-time positions.....	86
Terms of Employment:.....	86
4.4 MERIT INCREASE.....	87
4.5 EXTRA MERIT INCREASE	87
4.6 COST OF LIVING INCREASE	87
4.7 SALARY ADJUSTMENTS	88
Temporary Work in Higher Capacity/Acting Pay.....	88
Pay on Demotion.....	88
Lateral Transfer	88
Additional Duties as Assigned	88
Certification Pay.....	88
Promotion.....	88
Re-employment	88
Competitive Salary Offers:.....	89
4.8 OVERTIME, COMPENSATORY TIME, EMERGENCIES, & ON-CALL	89
General	89
Overtime Pay	89
Compensatory Time	89
On-Call	90
Rest Periods.....	91
Meal Breaks.....	91
Use of Electronic Communication Devices	91
Record Keeping Requirements.....	92
Emergency Service.....	92
4.9 EFFECTIVE DATE OF PERSONNEL ACTIONS	92
4.10 ANNIVERSARY DATES	93
4.11 PAYROLL DEDUCTIONS.....	93
4.12 PAY AND WORK PERIODS	93
4.13 PAY STATEMENTS.....	93
4.14 DIRECT DEPOSIT.....	93
5.1 GENERAL PROVISIONS OF PAID AND UNPAID LEAVE	94
5.2 LEAVE	94
Definitions	94
Accrual	95
General Leave Use	95
Payment of Accrued but Unused General.....	96
Major Illness Leave.....	96
Major Illness Absence of Full Days	96
Major Illness Absence of Partial and/or Intermittent Days	97
Payment of accrued but unused Major Illness leave at Retirement or death-in-service	97
5.3 HOLIDAYS AND HOLIDAY PAY	98
Definitions	98
Provisions.....	99
Holiday Scheduling.....	99
Holiday Pay	100
Authority	Error! Bookmark not defined.
Interpretation	Error! Bookmark not defined.
5.4 SHARED LEAVE	101
Eligibility.....	101
5.5 FAMILY AND MEDICAL LEAVE ACT (FMLA).....	101

Definitions	101
Provisions	103
5.6 WORKERS' COMPENSATION	105
Workers' Compensation Benefit	105
Reporting Procedures	106
Effect on Pay and Benefits	106
Safety and Health Program	107
5.7 INJURY LEAVE	107
Length	107
Light duty assignment	108
Subrogation of the City	108
5.8 CIVIL LEAVE	108
Definitions	108
Provisions	109
Procedures	109
Compensation/Reimbursement for Civil Leave	109
5.9 EDUCATION LEAVE	110
5.10 LEAVE WITHOUT PAY	110
Procedure	110
5.11 INCLEMENT WEATHER AND OTHER EMERGENCY LEAVE	111
Essential Personnel	111
Non-Essential Personnel	112
5.12 DISCRETIONARY LEAVE	112
5.13 DEATH-IN-FAMILY LEAVE	113
5.14 VOLUNTEER TIME	113
Eligibility	113
Ineligibility	113
Amount of Time	113
Approval Process	114
5.15 VRS HYBRID EMPLOYEE SHORT- AND LONG-TERM DISABILITY COVERAGE	114
5.16 MILITARY LEAVE	115
5.17 ORGAN DONATION LEAVE	116
5.18 PARENTAL LEAVE	116
Policy	117
Eligibility	117
Types of Paid Parental Leave	117
Paid Maternity Leave for Birthing Mothers (including genetic or non-genetic surrogacy)	117
Paid Bonding Leave	118
Paid Birth Leave through Surrogate, Adoption or Foster Care Placement	118
Paid Leave for Employee's Parents	118
Paid Parental Leave Stillbirth	118
Use of Paid Parental Leave	119
Procedures	119
6.1 BENEFITS ELIGIBILITY	119
6.2 HEALTH PLAN	119
Coverage	120
Active Employees Coverage	120
Active Employees Suspension of Health Insurance Coverage	120
Retiree Health Coverage	121
Cost of Coverage	122
6.3 RETIREMENT AND LIFE INSURANCE	122

Eligibility.....	122
Suspension of Retirement and Life Insurance Coverage	123
Termination of Employment (Other Than Retirement).....	123
6.4 RETIREMENT GIFT	123
Eligibility.....	123
6.5 UNEMPLOYMENT INSURANCE	124
6.6 SOCIAL SECURITY	124
6.7 OPTIONAL BENEFITS	124
6.8 EMPLOYEE ASSISTANCE PROGRAM	124
7.1 EDUCATION AND TRAINING	124
7.2 EMPLOYEE EVALUATION	124
8.1 OCCUPATIONAL SAFETY	125
8.2 EMPLOYEE MOTOR VEHICLE LICENSE AND OPERATION	125
Definitions	125
Authorized Vehicle Use	126
Driver Eligibility Requirements	126
Personal Tax Liability:	126
Vehicle Accidents	127
Post-Accident Testing Policy	127
Vehicle Operation	127
Driver Restrictions	127
Employees in Essential driving positions.....	128
Employees in Non-Essential driving positions.....	128
8.3 HAZARD COMMUNICATION STANDARDS	128
8.4 CONFINED SPACE PROGRAM	129
9.1 GRIEVANCE PROCEDURE.....	129
General Provisions	129
Management Rights/Non-grievable Issues.....	129
Grievable Issues or Disputes	130
CONSOLIDATION OF GRIEVANCE	131
HUMAN RESOURCES DEPARTMENT RESPONSIBILITIES	131
PROCEDURE AND COMPLIANCE.....	132
General Provisions.....	132
Compliance.....	132
EXCEPTIONS TO FOUR-STEP PROCEDURE	133
MANAGEMENT/SUPERVISORY STEPS	133
PANEL HEARING	134
Selection of Panel	134
Prior to the Hearing:	135
Procedures at the Hearing:.....	136

1.1 INTRODUCTION AND OBJECTIVES

This document contains the employment policies and procedures for the City of Staunton, Virginia. These employment policies are designed to guide the management of the City's human resources in an efficient and effective manner that provides for public accountability and consistent, equitable decisions. The City believes that all employees make important contributions to serving the City and its residents.

All City employees should work in a safe, non-discriminatory and alcohol and drug free environment that fosters positive interactions with colleagues and residents.

These policies are designed to bring to the City service a high degree of understanding, cooperation, efficiency, ethical conduct, professionalism and unity through systematic, uniform application of modern personnel policies. The objectives of the City human resources management system, which includes these policies, are:

- To promote and increase efficiency, responsiveness to the public, and innovation, creativity and economy in the City service;
- To provide fair and equal opportunity for qualified persons to enter and progress in the City service in a manner based on merit and fitness as ascertained through fair and practical human resource management methods;
- To sustain the City's reputation as an employer of choice through recruitment and retention practices aimed at hiring quality applicants while requiring high levels of service to the City and the public;
- To maintain consistent, up-to-date position classification and compensation plans based on the relative duties and responsibilities of jobs in the City service; and
- To promote high morale among City employees by fostering good working relationships and by providing for uniform personnel policies, opportunities for advancement, and consideration of employee needs and desires.

1.2 APPLICABILITY/SCOPE AND INTERPRETATION

These policies apply to all employees under the control and supervision of the City Manager, except as otherwise provided or prohibited by law. An employee working for a Constitutional Officer is considered an employee of the Constitutional Officer. The Constitutional Officer may be subject to some of these policies pursuant to a Memorandum of Understanding signed between the Constitutional Officer and the City of Staunton. These policies and any amendments shall take effect on the date of Staunton City Council approval and shall supersede all previously issued policies. These policies may be amended at any time. These policies do not imply or create a vesting or a contract entitling City employees to any specific benefits or policies from the City.

The City Manager is the City's Chief Administrative Officer and is vested with the administrative and executive powers to administer the City's affairs. The City Manager is authorized to appoint, supervise, and discipline all employees of the City service except for Council appointed officials. The City Manager or designee shall be the direct supervisor of all Department Directors. The City Manager is the Chief Personnel Officer responsible for establishing and administering the human resources policies of the City of Staunton. The City Manager may designate an individual to administer these policies.

The City Manager hereby designates the City's Chief Human Resources Officer to administer and interpret these policies consistent with the provisions and intent of the policies and the availability of appropriated funds sufficient to satisfy the policies' obligations.

The Chief Human Resources Officer may make exceptions to these policies in special or unusual circumstances when, in the opinion of the Chief Human Resources Officer in consultation with the City Attorney, the exception would be in the best interest of the City of Staunton and would comply with all federal and state employment laws and regulations. Any exception to these policies shall be in writing and shall remain on file within the Human Resources Department.

In the event that several policies apply to the same situation, or where a conflict of the policies appears to exist, the Chief Human Resources Officer is authorized to determine which policy applies to the situation.

All City employees shall be informed of the existence of these policies and an updated copy shall be posted on the intranet for fast and easy reference by employees. A hard copy can be requested from the Human Resources Department at any time. The Human Resources Department maintains and implements these policies, and the Department provides the City service with updates whenever these policies are amended.

1.3 DEPARTMENT DIRECTORS AND REGULATIONS

Department Directors implement and enforce these policies and regulations under the general supervision of the City Manager or designee. Department Directors have complete day-to-day supervision of employees and volunteers under their supervision including the responsibility to hire, direct, discipline and dismiss employees in accordance with these policies as interpreted by the City Manager or designee.

Department Directors also have complete authority to develop organization structures and staffing levels based upon service delivery needs and the availability of appropriated funds. Department Directors also have the authority to schedule and direct all work activity within their departments. Department Directors are responsible for their department's compliance with all city policies including financial and procurement policies.

Department Directors may establish departmental rules governing the conduct and performance of their department's employees. Departmental rules may not conflict with these personnel policies or any state, federal or local regulations unless the rule conflicts with these policies and such exception is approved by the City Manager in writing. In the event of a conflict between a departmental rule and these policies, these policies shall override the departmental rule. Disciplinary action may be administered for a violation of departmental rules. The City Manager shall approve any departmental rule relating to the conduct and performance of departmental employees.

1.4 BENEFITS ARE NOT CONTRACTUAL

These policies will describe a menu of benefits offered to City employees such as leave, health insurance, and retirement benefits. These policies are legislative in nature and are not in any manner a contract and do not create a contractual right for employees to receive any benefit. From time to time, conditions or circumstances may require that the City amend its benefits program for both active employees and

retirees. Employees and retirees are not guaranteed current or future benefits unless mandated by federal or state law.

2.1 EMPLOYMENT-AT-WILL

It is the policy of the City of Staunton that all employees are employed at the will of the City and do not have a contract with the City. Employment with the City is considered at-will so that either party may terminate the relationship at any time with or without a stated reason. Neither these policies nor any other policy or procedure of the City of Staunton shall be construed to create a contract of employment for any specified duration nor do these policies create any right to continued employment.

No City official is authorized to make any representations to employees or applicants in recruiting materials, interviews, or discussions concerning the terms and conditions of employment which are not consistent with the foregoing at-will relationship. Any such statements are hereby disavowed by the City and should not be relied on by any employee or prospective applicant. Statements of specific grounds for termination set forth in this manual or in any other City documents are guidelines and are not intended to restrict the City's right to terminate at-will. Completion of an initial period of employment or conferral of full-time status does not change the at-will employment relationship.

2.2 EQUAL EMPLOYMENT OPPORTUNITY POLICY

The City of Staunton is an equal opportunity employer committed to non-discrimination in recruitment, selection, hiring, pay, promotion, retention or other personnel action affecting employees or candidates for employment. In order to implement this policy, the City Manager designates the Chief Human Resource Officer as the City's Equal Employment Opportunity Officer. Each Department Director is responsible for implementing equal employment opportunity practices within their respective departments. The Human Resources Department is responsible for overall compliance with this policy and will maintain personnel records in compliance with all applicable Federal and State laws and regulations. All employees have a responsibility to address discriminatory and/or harassing behavior observed on the job directly with the offending employee. **Employees** are not only encouraged to report discrimination or harassment; they are obligated to do so.

Discrimination in employment against any person on the basis of race, color, ethnicity, creed, religion, age, disability, national origin, sex, marital status, pregnancy, childbirth or related medical conditions, sexual orientation, gender identity, genetic information, status as a veteran or any other basis prohibited by Federal or State law which is unrelated to an individual's ability to perform the position's essential functions (hereinafter referred to in these policies as "protected characteristics") is prohibited. The City shall employ merit principles in all of its personnel decisions. Merit principles ensure that selections, appointments, and promotions in the City service are based on qualifications and competence rather than political favoritism, seniority, or other non-job-related factors. Similarly situated individuals are treated comparably in employment matters, with or without the provision of a reasonable accommodation. Pursuant to this, the City shall:

- base all decisions of employment so as to further the principles of workplace diversity, equal opportunity employment and the creation of a welcoming and inclusive work environment;
- administer recruitment, selection, compensation, benefits, promotions, transfers, layoffs, training, and all other employment related decisions on a non-discriminatory basis without regard to an employee's or applicant's protected characteristics.; and

- ensure that all facilities of the City of Staunton are available to employees and applicants on a non-discriminatory basis and that all social and recreational programs sponsored for employees are open to participation without regard to protected characteristics.

The City will not tolerate any form of discrimination, including sexual or racial harassment, of its employees. Allegations of discrimination and harassment will be thoroughly investigated and disciplinary or corrective action will be implemented as warranted. Reprisals or retaliation against employees who file complaints of discrimination or harassment are prohibited; however, such protection does not condone unfounded or vindictive accusations of others. While a guarantee of confidentiality cannot be provided, the City strives to protect the legitimate interests of all parties concerned in a dispute involving allegations of discrimination or harassment.

Individuals who have been subjected to or witnessed discrimination, including sexual or racial harassment shall utilize one of the following procedures:

- A. Report the incident of discrimination or harassment to the employee's direct supervisor or Department Director. The Department Director will immediately investigate any report or act of discrimination of which they become aware.
- B. Contact the Human Resources Department to report an incident of discrimination or harassment. The appropriate Human Resources Department employee(s) will immediately investigate any report or act of discrimination of which they become aware.
- C. Contact the Assistant City Manager who will immediately investigate any report or act of discrimination of which they become aware.
- D. File a grievance pursuant to the City's Grievance Procedure found in Section 9 of these policies.

The City shall post all required notices regarding employee rights pursuant to Equal Employment Opportunity laws in areas highly visible to City employees. Additionally, this policy will be posted on the City's intranet and is available in hard copy format upon request of any City employee or applicant.

Violations of this policy will not be tolerated. The City will administer disciplinary or corrective action when appropriate. Disciplinary action, up to and including termination, may be taken against any employee violating this policy.

The City's policy against racial and sexual harassment is found in Section 3.10 of these policies.

2.3 AFFIRMATIVE ACTION AND RECRUITMENT PLAN

The City of Staunton is an equal opportunity employer. The City is committed to the maintenance and promotion of the policy of non-discrimination by incorporating sound merit principles in all aspects of human resources management affecting its employees and applicants. Human resource management within the City shall be implemented free from such prohibited personnel practices as discrimination, 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 protected characteristics (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.

Recruiting for all newly established or vacated positions shall be authorized by the City Manager or designee.

Vacancy listings and/or postings on the City of Staunton's website shall be advertised for a minimum of seven business days and applications will be accepted only when the position is advertised on the City of Staunton's website. Applications received after the position is removed on the website shall not be considered.

Vacancies may be advertised with the local employment commission, newspapers, electronic media, other government agencies, journals, institutions of higher education, professional organizations, and other sources as appropriate. The hiring Department Director and the Human Resources Department shall work cooperatively to determine the most effective means to advertise any vacancy to achieve the maximum exposure to qualified applicants.

All persons wishing to apply for a vacant position advertised to the public shall have the opportunity to do so. All vacancy postings and advertisements shall include the following statement: "The City of Staunton is an Equal Opportunity Employer."

2.4 TYPES OF EMPLOYEES

- A. Full-time: An employee hired on a regular recurring schedule of at least 40 hours per week. The employee receives all benefits provided herein.
- B. Part-time: An employee hired on a regular, recurring schedule of less than 30 hours per week. Refer to Section 4.3 for eligible benefits.
- C. Temporary and Seasonal: An employee who is hired to work on a specific project or for a specific time period during the year. Refer to Section 4.3 for eligible benefits.
- D. Work Release/Inmate Labor: An inmate of a correctional facility working for the City as a paid staff member. Refer to Section 4.3 for eligible benefits.

An exempt employee is an employee who is not subject to the minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA) based on the employee's salary and duties performed.

A non-exempt employee is an employee who is subject to the minimum wage and overtime requirements of the FLSA.

Hiring of a person in more than one City job is not encouraged. However, it is recognized there may be situations when it is advantageous to the City and employee. The person responsible for hiring a City employee to a second City job shall consult with the Chief Human Resources Officer regarding provisions of the Personnel Policy Manual and Fair Labor Standards Act.

2.5 APPLICATION FOR EMPLOYMENT

- A. Application Form. Every applicant for employment with the City shall complete an employment application form.
- B. False or incomplete information. An applicant or an employee who provides false information on the application form or who fails to disclose information that is pertinent to the position is subject to denial of employment or disciplinary action, up to and including termination. There is no time limit for which an employee may be disciplined for providing false or incomplete information on an application form.
- C. Criminal Background. The City's application form will only inquire about an applicant's criminal background for law enforcement agency positions or position related to law-enforcement agencies or sensitive positions. The City of Staunton will not deny employment to any applicant solely because the person has been convicted of a crime. The City of Staunton will consider the nature, date, and circumstances of the offense as well as whether the offense is relevant to the duties of the position applied for.
- D. Nepotism. A member of an employee's immediate family may be considered for employment, provided the applicant possesses all the qualifications for the position. An immediate family member may not be hired, however, if such employment would:
 - i. create either a direct or indirect supervisor/subordinate relationship with a family member; or
 - ii. create either an actual conflict of interest or the appearance of a conflict of interest.

The same criteria shall also be considered when assigning, transferring or promoting an employee. Employees who marry or become members of the same household with another employee may continue employment in their positions as long as the above conditions do not exist. Accordingly, employees are required to notify departmental management if these types of situations and/or relationships exist. If there is a violation of this policy, both employees will be given the opportunity to decide who will resign in order to come into compliance with this policy. If employees cannot decide, the City will make a decision based on performance and other legitimate business reasons, including but not limited to, operational needs. If all criteria are equal, the least senior employee will be asked to resign or will be terminated. Every opportunity will be afforded, if business conditions warrant, to transfer an employee into another department so as to eliminate the violation of policy.

2.6 DISQUALIFICATION

An applicant shall be disqualified from consideration if they:

- A. do not meet the qualifications necessary for performance of the duties of the position involved with or without a reasonable accommodation;
- B. have committed or attempted to commit a fraudulent act at any stage of the selection process;
- C. are not legally permitted to work in the United States; or
- D. refuse to consent to screening, testing, or investigation as part of the certification process.

An applicant may be disqualified from consideration upon other reasonable ground relating to job requirements.

2.7 RE-EMPLOYMENT

Former employees who leave the City in good standing may be considered for reemployment. Former employees who resign without notice or who were dismissed for violation of the City's policy, or for any act which the City, in its sole discretion, believes was not in the best interest of the City, may be removed from future employment consideration. A terminated employee rehired within one year will retain accumulated service credit for leave accrual purposes.

2.8 EVALUATION AND SELECTION FOR EMPLOYMENT

The Department Director or designee shall determine the most appropriate means of evaluating applicants against job requirements to identify the best qualified. Reference checks, interviews, medical examinations, background checks, performance tests, written tests, and/or other screening procedures may be used as appropriate. Applicants shall be required to provide any information and undergo any examinations necessary to demonstrate compliance with prescribed qualification requirements for the positions involved. The Chief Human Resources Officer shall oversee the recruitment and selection process to ensure all procedures are designed to place the best qualified applicant in a position and to assure all applicants equal opportunity and consideration for employment.

2.9 EMPLOYMENT OF NON-CITIZENS, VRS RETIREES, AND JUVENILES

Non-United States citizens possessing the ability to work in the United States legally shall be considered for selection, promotion, and all other personnel actions on the same basis and under the same processes as United States citizens, except that applicants for sworn police officer positions must be United States citizens.

An individual receiving a Virginia Retirement System (VRS) annuity may not be employed in any full-time positions unless the employee agrees to suspend the VRS benefit payments for the duration of the employment. No individual who retires from the City in a VRS covered position may work for the City in any capacity until at least one calendar month has elapsed since the date of the employee's retirement.

Persons under the age of 16 years old shall not be employed by the City. The employment of individuals between 16 and 18 years old shall be subject to all applicable State and Federal laws.

2.10 HIRING

As an equal opportunity employer, it is the City of Staunton's policy to hire individuals solely upon the basis of their qualifications for the position to be filled. In the event the qualifications of applicants are determined to be equal, consideration is normally given to the following:

- A. Current City employees are considered over other applicants in order to provide employees with opportunities for growth and advancement.
- B. Qualified persons who are on layoff status with the City are given consideration over other applicants (Ref. 2.17, Layoff and Recall).

- C. Any legally required affirmative action obligations.
- D. An individual's disability or veteran status consistent with Virginia Code Section 15.2-1509, as amended.

2.11 ORIENTATION AND TRAINING

The Chief Human Resources Officer or designee shall provide an orientation for all new full-time employees regarding the benefits available through the City, as well as these personnel policies . Each department is responsible for orientation as it applies to introducing new employees to their job duties and responsibilities, work rules, safety rules, and departmental operating policies and procedures.

2.12 INITIAL PERIOD OF EMPLOYMENT

The City uses an initial period of employment for employees holding full-time and part-time positions to determine the employee's suitability for their position. The initial period of employment shall be used to assess the employee's work performance, interpersonal behavior and conduct, and to allow sufficient time for an employee to adjust to their position and work environment.

All new employees with the exception of Police Officers shall serve a six (6) month initial period of employment. Police Officers shall serve a twelve (12) month initial period of employment. All employees of the City, including those in the initial period of employment, are employed at-will.

All current employees transferred or promoted to a new job for which they have not been trained shall also serve a six (6) month initial period of employment to ensure that they are qualified to fulfill the duties and responsibilities of their new position.

The Department Director, in consultation with the Department of Human Resources as well as the City Attorney, may extend an employee's initial period of employment to ensure that the employee is qualified to fulfill the duties and responsibilities of their position.

At any time during the initial period of employment, Department Directors may recommend the termination or the transfer of an employee whose performance does not meet the required work performance standards. The recommendation should, if at all possible, be reviewed and approved by the City Manager or designee. Employees terminated during or at the end of the initial period of employment do not have the right to appeal the termination through the City's grievance procedure .

2.13 HOURS OF WORK

It is the policy of the City of Staunton to establish the time and duration of working hours as required by work load, service delivery needs, and the efficient management of personnel resources. The schedule of hours for employees will be determined by the department or office to which the employee is assigned. Employees may be required to work overtime when deemed necessary by their supervisor (Ref. 4.8, Overtime and Compensatory Time).

The standard work day excludes approved meal periods, but may include a break period within the first and second halves of the work day or within any uninterrupted four-hour work period.

2.14 OUTSIDE EMPLOYMENT

All employees, including part-time employees, must obtain prior approval from their Department Director before any outside employment or other paid work activity is undertaken. Employees may hold employment or operate a business during non-duty hours provided it does not cause a conflict of interest or the appearance of a conflict of interest, reflect unfavorably upon the City service, impair the employee's ability to perform City duties, and is not performed in City facilities or with City supplies or equipment. Employees who are on approved Family Medical Leave may not hold employment outside the City if the work being conducted is similar and/or equal to the position they hold with the City. In addition, employees are not to solicit or conduct any outside business or employer during paid working time. If a Department Director has any question about whether outside employment may result in a conflict of interest, the Department Director shall refer the request to the Human Resources Department. The Human Resources Department shall consult with the City Attorney to determine if a conflict of interest exists.

Employees who have accepted outside employment are not eligible for injury leave or workers' compensation benefits when the absence is used to work for an outside employer or is the result of an injury sustained on outside employment.

If the outside employment does cause or contribute to violations of City policy, is deemed a conflict of interest, or results in job-related problems, it must be discontinued, and if necessary, normal disciplinary procedures will be followed to remedy specific situations.

2.15 OCCUPATIONAL HEALTH

Applicants and employees may be required to submit to medical tests or examinations consistent with applicable law whenever management feels such actions are necessary for the safe or efficient operation of the organization, and in order for the employee or applicant to perform the essential functions of the position without posing a direct risk of injury to themselves or others. Examinations for which the City reserves the right to designate or approve the physician will be paid for by the City.

- A. Successful applicants for employment may be required as a condition of employment (post-offer) to pass a medical, drug, and/or psychological examination to establish their fitness to perform the essential functions for which they have applied without posing a direct risk of injury to themselves or others. Such examinations must be completed following a conditional offer of employment but before the employee begins working for the City. The examination shall be administered by a physician designated or approved by the City. A positive test for drugs or alcohol shall be grounds for disqualification from employment consideration.
- B. Employees may be required to have a medical examination by a physician designated or approved by the City on other occasions, such as when there is the potential for exposure to toxic or unhealthful conditions, when being considered for transfer or promotion, or when there is a question concerning the employee's ability to perform the essential functions of the job which he holds or for which he is being considered without posing a direct risk of injury to themselves or others.
- C. Medical examinations paid for by the City are the property of the City and are to be treated as confidential. However, records of such examinations, if required by law or regulation or

- warranted by appropriate business practice, with proper release, will be made available to the employee or applicant, persons designated and authorized by the employee or applicant, public agencies, insurance companies, or the employee or applicant's doctor.
- D. Employees who need to use prescribed drugs or narcotics while at work must report this requirement to their Department Director and provide acceptable medical documentation. Depending on the circumstances, employees may be reassigned, forbidden to perform certain tasks, or even not allowed to work if they are judged not able to perform the essential functions of the job properly without posing a direct risk of injury to themselves and others while taking prescribed drugs or narcotics (Ref. 3.4, Drug and Alcohol Free Workplace).
 - E. The City reserves the right to require acceptable confirmation of the nature and extent of any illness, injury or incapacitation that requires an employee to be absent from scheduled work. Employees returning from a disability leave or an absence caused by health problems may be required to provide a doctor's certification of their ability to perform the essential functions of their job safely and satisfactorily without posing a direct risk of injury to themselves or others.
 - F. The City reserves the right, consistent with applicable law, to require a second medical opinion by a physician designated or approved by the City regarding an employee's absence because of illness, injury or incapacitation or regarding a doctor's certification of an employee's ability to return to work.
 - G. Employees who become ill on the job or suffer any work-related injury which requires medical attention must, whenever possible, notify their supervisor before leaving their workstation.

2.16 SERIOUS DISEASE

It is the policy of the City that employees with infectious, long-term, life-threatening, or other serious diseases may work as long as they are physically and mentally able to perform the essential functions of their job without posing a direct risk of injury to themselves or others. Such serious diseases include, but are not limited to, cancer, heart disease, multiple sclerosis, hepatitis, tuberculosis, and acquired immune deficiency syndrome (AIDS).

- A. Employees afflicted with a serious disease which is not normally transmitted by casual contact in ordinary social or usual occupational settings shall be treated the same as any other employee. If the serious disease affects their ability to perform the essential functions of the job, such employees are to be treated like other employees who have disabilities that limit their job performance. The employee and the City shall engage in an interactive process to determine if a reasonable accommodation can be provided to the employee to perform the essential functions of the employee's job.
- B. Employees who are diagnosed as having a serious disease are to provide the Chief Human Resources Officer with any pertinent medical records needed to make decisions regarding job assignments, ability to continue working, or ability to return to work. A doctor's certification of an employee's ability to safely perform the essential functions of the job may be required. (Ref. 2.15(E)) The Chief Human Resources Officer and Department Director will review with the employee City policy on such issues as employee assistance, leaves and disability, infection control, any accommodation the employee may request and the City's response to that request, the City's continuing expectation regarding the employee's performance and attendance, and available benefits.
- C. The City shall take all reasonable steps to ensure the confidentiality of information relating to employees known or suspected to have contracted a serious disease. Information relating to

an employee's serious disease will not be disclosed to other employees unless under applicable law the information is necessary to protect the health or safety of the employee, co-workers, or others.

- D. It shall be the City's responsibility to make available necessary protective garments and equipment to employees who are at risk of occupational exposure to serious diseases to facilitate the safe performance of their jobs.
- E. Employees concerned about being infected with a serious disease by a co-worker or customer should discuss this concern with their Department Director. When practicable, pertinent educational materials or referrals for counseling with community resources will be made available to enhance employee awareness and understanding of serious diseases. Where there is little or no medical evidence of risk of infection to the concerned employee, the employee may be assigned to work with or perform services for any other employee or customer as required. Employees who refuse to work with, withhold services from, or who harass or otherwise illegally discriminate against, a person known or suspected to have a serious disease shall be subject to disciplinary action.

2.17 LAYOFF AND RECALL

Purpose

It is the policy of the City of Staunton to organize and reorganize the City's workforce in a manner that is fiscally responsible and in the best interests of the City and its citizens. The City has the responsibility to manage its resources and, if necessary, implement reductions in force or layoffs in consideration of sound fiscal management; insufficient funds because of reduced revenues or adverse economic conditions or other changing circumstances or priorities; reorganization or restructuring of departments, functions, or tasks within the City; and abolishment or reconfiguration of positions, including change of positions from full time to part time or similar modifications. The decision to initiate and implement a layoff must be non-discriminatory and in accordance with procedures set forth below.

Definitions

Abolishment of position: Discontinuing a position due to the City's needs based on funding, organizational changes or changes in need. Abolishment results in a reduction in the maximum employment level and budget allocation for the identified unit/department.

Core function or position: A function or position determined by the City Manager to implicate functions or tasks of or for the City that are central to City governance or operations, such as business, legal compliance and information technology functions.

Essential function or position: A function or position determined by the City Manager to implicate functions or tasks of or for the City that are essential to City governance or operations, such as public safety that involve law enforcement, fire and rescue services, and public sanitary and utility functions; or a position that is mandated by controlling law, including the City Charter.

Full-time: An employee hired on a schedule of at least 40 hours per week. The employee receives all benefits provided herein.

Part-time: An employee hired on a regular, recurring schedule of less than 30 hours per week. Employees receive no benefits in these positions.

Temporary and Seasonal: An employee who is hired to work on a specific project or for a specific time period during the year. Temporary and seasonal employees do not receive benefits.

Provisions

The City Manager, in consultation with management staff and others as may be deemed advisable, will determine the operational needs and level of staff needed to provide services to the City. Consideration will be given to services, programs, and activities that provide essential or core functions while providing for a variety of needs and services to the citizens of the City. The City Manager may designate certain positions or the number of positions needed to provide essential or core functions, exempting them from the provisions of this policy. The City Manager will provide a list of such specific positions to the Human Resources Department prior to any layoff action.

- A. Upon identifying the functions to be affected, specific positions will be identified for elimination, reassignment, or restructuring by the City Manager.
- B. Individuals in the positions identified for elimination or reassignment also will be identified for layoff.
- C. In case of multiple incumbents in a classification (title) within a department or division affected by layoff, the following will be the determining factors in effecting layoff:
 - i. employees in the initial period of employment will be laid off first;
 - ii. overall ability to contribute to the achievement of the City's goals and priorities, including those that may extend to cooperative or more formal collaboration with the school division;
 - iii. special or specific skills, education, training or experience that allows the City to achieve its goals and priorities in the most flexible manner, including the ability to perform a variety of functions even across traditional department or division functions, including those that may extend to cooperative or more formal collaboration with the school division; and
 - iv. the proficiency of the employee's ability to perform tasks as documented in the employee's most recent performance review.
- D. A review of all vacant positions will be conducted to determine if reassignment options are available.
- E. Employees identified for layoff may be given consideration for the following vacant positions in the City:
 - i. vacant positions in the same pay grade for which the employee is qualified so that if chosen, the individual may retain their current salary.
 - ii. vacant positions in a lower pay grade for which the employee is qualified so that if chosen the individual may receive a reduced salary in accordance with the demotion policy.
- F. Employees identified for layoff may also be considered, along with other applicants, for other vacant positions with the City for which the City is recruiting and accepting applications. Selection will be competitive, based on the education, knowledge, skills, abilities and experience needed to perform the position duties in accordance with the City's other applicable personnel policies and practices. The responsibility to apply for any current or future vacancy remains at all times with the employee.
- G. Written notification of layoff will be given to the identified employee. Severance pay may be authorized at the discretion of the City Manager subject to the appropriation of sufficient funds for this purpose. The City will endeavor to identify placement resources or services for the employee, which the employee may pursue at the employee's expense, if any.
- H. Employees who are laid off will be maintained on a list for one year and may apply for vacant positions for which the City is recruiting and accepting applications. While on the list, employees should report to the Human Resources Department if their status or information changes in any way. In order to be considered for an advertised position the individual must complete an employment

application and other requested documents, consistent with the City's other personnel policies and practices.

- I. Employees on lay off will not be entitled to continuation of benefits except as provided under COBRA or other applicable law.
- J. Employees who are on Family and Medical Leave, shared leave, military leave or other approved leave are considered active employees and will be treated as if they are in their positions. If their positions are to be abolished, they will have the same rights as all employees in a lay off status subject to otherwise applicable federal and state law.
- K. The City Manager may develop and implement a voluntary retirement incentive program, subject to any necessary approval of City Council and availability of sufficient appropriated funds for such purpose.
- L. A layoff constitutes a non-grievable matter or issue under the City of Staunton's grievance policy.
- M. The City reserves the prerogative to alter the layoff policy as permitted by the employment-at-will doctrine referenced in Section 2.1 of this policy manual, and nothing in this policy or the application of this policy should be construed to alter the employment-at-will relationship between the City and its employees.
- N. The provisions of this policy are subject to and contingent upon sufficient appropriated funds for this purpose.

References:

City Charter, Section 11

Virginia Code §§ 15.2-1102, 15.2-1106, 15.2-1500, 15.2-1501

Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654

Consolidated Omnibus Budget Reconciliation Act, as amended

Uniformed Services Employment and Re-employment Act, 38 U.S.C., §§ et seq

2.18 TERMINATION OF EMPLOYMENT

Date of Termination

The official date of termination is ordinarily an employee's last day at work. If an employee is on authorized family medical leave when it becomes known that the employee will not return to work, the date of termination shall be the date the information is received. To ensure the orderly administration of the City business and the delivery of services, employees should resign in accordance with this policy and applicable law or regulation. While resignations should be submitted in writing, nothing in this Policy prevents an employee's director/supervisor from accepting a resignation made verbally. The employee's Department Director shall notify the Department of Human Resources about the employee's resignation.

Pay Upon Termination

Employees who are terminating due to resignation or retirement and provide at least a two (2) calendar week notice before the effective date of their resignation or retirement, will be paid a lump sum for all money due on the pay date of the pay period that includes the effective date of their termination. For the purposes of pay, employees terminated due to resignation or retirement must physically work their last day. Pay out includes any unused general leave, compensatory time and/or major illness if applicable. The maximum number of hours of leave that will be paid out upon termination is 480 hours (640 hours of leave for sworn fire and rescue personnel). Employees who are terminating due to resignation or retirement, and do **not** provide at least a two (2) calendar week notice, the employee shall forfeit payment of any unused general leave. For the purposes of this policy, employees who are terminated involuntarily or separate employment through job abandonment, the City Manager may, except in cases involving Council-appointed employees, determine that unused general leave is forfeited.

Prior to an employee's last day of work, the employee's supervisor shall ensure that the employee has returned all City property in the employee's possession, including City identification cards, keys, credit cards, tools or office equipment, uniforms, and vehicles. If any of this property has been lost or stolen, the supervisor shall advise the Chief Human Resources Officer of the cost of replacing such property. If the employee fails to return all City property stated above, the City shall pursue all appropriate legal remedies in order to recover the property or its corresponding value.

Exit Interviews

When practical, the Chief Human Resources Officer /or designee shall conduct an exit interview with terminating full-time employees not later than the employee's last working day. However, at a minimum, terminated full-time employees will be mailed an exit interview questionnaire in conjunction with a letter addressing employee benefits at termination. The purpose of this letter is to:

- explain any conversion or continuation benefits under the City's group health and life insurance plans and any other vested benefits available to the employee through the City's benefit plans;
- notify the employee when optional fringe benefits will expire;
- obtain the employee's correct address for mailing Internal Revenue Service Form W-2; and
- notify the employee when he or she can expect to receive his final pay check and what it will include.

Voluntary Resignations

Department Directors should notify the Chief Human Resources Officer upon receipt of notification of voluntary resignations so that recruitment advertisements can be prepared and an exit interview can be scheduled.

Any employee who is absent from work without having notified his immediate supervisor of the absence or the reason for it will be considered as having resigned for job abandonment after the third consecutive day of absence, unless otherwise provided by law.

Within seven days of submitting a two weeks resignation notice, the employee may rescind their resignation with the approval of the Chief Human Resources Officer.

Benefits, Service and Disability Retirements

Insurance benefits will cease effective at the end of the calendar month in which the employee resigns, retires or is terminated involuntarily or abandons their job. Information regarding continuation of insurance benefits through COBRA will be sent by an independent administrator.

Members of the Virginia Retirement System (VRS) who work any day of a month are to receive creditable service to VRS for that month. As such, the terminating employee shall be responsible for the entire month's 5% employee contribution to VRS, regardless of the amount of time worked in the month.

The Virginia Retirement System (VRS) generally requires 90 days to process retirement applications. Employees who are considering retirement are encouraged to contact the Chief Human Resources Officer 100 days in advance of their anticipated retirement date so that sufficient time is available to prepare applicable forms and discuss retirement options and procedures. Failure to provide VRS the customary 90 days' notice may result in a delay in the retiree's first monthly benefit.

An employee may be terminated when he cannot perform the essential functions of the job without posing a direct risk of injury to themselves or others. The termination may be initiated by the employee, their legal representative or the City. Disability retirements must meet the medical and other requirements of the VRS.

Death in Service

Termination shall be effective as of the date of death. Payments for accrued leave and earned salary shall be paid to the surviving spouse or estate according to state laws.

Involuntary Terminations

It is the policy of the City to terminate employment for any reason including, but not limited to, economic conditions, less than satisfactory work performance or as a disciplinary measure for actions which are contrary to City or department operating policies, safety procedures or rules of conduct.

All involuntary terminations initiated by the City should, if at all possible, be approved in advance by the Chief Human Resources Officer. Department Directors should, if at all possible, submit their recommendations for termination of employment to the Chief Human Resources Officer and include all pertinent information supporting the reason for the recommendations.

Return of City Equipment

Prior to or at the time of separation, the employee must return all City owned materials and equipment to their Department Director or supervisor. The employee must also make arrangements and provide a forwarding address to receive their final paycheck and statement of annual earnings (Form W-2). The Human Resources Department will contact the separating employee to discuss any benefit options that exist at the time of separation.

2.19 TRAVEL, REIMBURSEMENT AND USE OF CITY CREDIT CARDS

When employees are called upon to travel outside the City limits for work related events that require the use of a City vehicle, personal vehicle, or other means of transportation and possibly reimbursement from City funds, the procedures set forth in this policy shall govern such travel and reimbursement of funds.

Direct responsibility for the travel of City employees rests with Department Directors/or Designees. As such, they shall authorize the travel of each respective employee, establish controls limiting the duration of travel to a minimum and ensure that the method of travel is the most efficient and economical available. Furthermore, attendance at conventions, seminars, workshops and other meetings must be approved by Department Directors/Designees, or in the case of Department Directors, the City Manager if the activity involves air travel.

General Policy

- A. All employees of the City of Staunton shall be covered by these regulations. Specific exemptions from these regulations may be made from time to time by the City Manager when a unique travel assignment would otherwise impose a financial hardship or in the City Manager's judgment may be necessary for the proper conduct of City business.
- B. Employees may receive a cash allowance for overnight travel expenses incurred in the performance of their duties within the prescribed maximums of this policy. The

maximums established herein are flat allowances for overnight travel only; only the actual amounts expended may be claimed, unless for meal allowance as described in greater detail in subsection “Meals and Subsistence” of this policy.

- C. At no time shall the use of petty cash for travel and associated expenses be allowed except as specifically provided for in these regulations.
- D. Every employee will be expected to make a complete accounting of the use of City funds by submitting paid receipts for daily travel expenses after such travel has been completed, if applicable.

Definitions

Throughout the policy the use of specific terms shall be interpreted by the following definitions:

Incidental Travel - shall be that travel which does not take an employee away from the work site for a period longer than a normal working day and will generally require no expenditures other than for fuel.

Daytime Trips - shall mean those trips that take more than a normal workday but allow the employee to leave and return to the City of Staunton within one day's time. Trips of less than 80 miles from Staunton City Hall are considered daytime trips. Receipts are required for reimbursement. No travel advance will be allowed for daytime trips and there will be no reimbursement for meals for daytime trips.

Overnight Trips - shall be those trips that require an employee to travel and lodge for one or more evenings away from the City of Staunton. Trips of greater than or equal to 80 miles from Staunton City Hall are considered to be overnight trips. If a one-way trip is under the 80-mile threshold and there are circumstances that would lend themselves to staying overnight, prior approval from the Department Director and City Manager or designee is required.

Place of Origin

- A. Place of Origin for individual employees shall generally be considered to be the administrative office of the particular department for which the employee works. A Department Director/Designee may designate a different location to conform to the employee's work location in a City facility or when such designation is necessary for efficiency and economy in the conduct of official business.
- B. Employees may reside at a place other than the site of the administrative offices but will not be eligible for reimbursement of subsistence expenses and transportation expenses between the administrative offices and residence (except as provided specifically in these regulations).

Authorization to Travel

- A. Generally, incidental travel need not be specifically authorized by a Department Director/Designee but should be cleared with supervisory personnel in the employee's division.
- B. When the travel is to be either daytime or overnight, it shall require the specific prior approval of the Department Director/Designee to ensure that funds are available for such purpose and that the trip is appropriate to cost and time away from work site.
- C. Should an employee require an allowance of money for overnight travel, other than incidental and daytime trips, no matter what the amount, the travel expense voucher form shall be used. The Department Director/Designee shall sign the travel expense voucher form to authorize both the travel and allowance request. All travel allowances require approval of the Assistant

Director of Finance or designee. Supporting documentation justifying the travel expense shall be submitted with the travel expense voucher form.

Funds for Travel and Subsistence Expenses

- A. Employees are expected to provide necessary out-of-pocket money during travel. Reimbursement of out-of-pocket expenses is made based upon receipts and prescribed maximums for incidental and daily trips.
- B. All cash allowances for travel shall be made payable to each employee requesting the allowance for overnight travel. All registration fees will be made payable to the organization or agency conducting the conference or seminar.
- C. Requisitions for conference and/or seminar registration must be accompanied by the conference or seminar information brochure when submitted to the Finance Department.
- D. If the only expenses connected with the travel are meals, an employee may request an advance meal allowance (as described in subsection “Meals and Subsistence” of this policy). The travel expense voucher form must be completed with all applicable information and documentation from the conference or seminar that indicates what meals are or are not provided attached to the form.

Submission and Audit of Travel Vouchers

- A. Vouchers reconciling travel expenses shall be submitted within 10 working days after the last day of travel to the Finance Department, if an advance (other than a meal allowance) was provided. One voucher for each trip is required.
- B. Additional travel allowances/reimbursements shall not be made if an employee has not complied with subsection “Funds for Travel and Subsistence Expenses,” and such shall not be processed until all other outstanding reconciliations have been cleared.
- C. All travel and subsistence expenses are subject to audit by the Finance Department and the City Manager. The audit may include a review of the propriety of the expenses incurred as well as receipt verification.
- D. If a City credit card is used for meals and/or lodging, the employee must still submit a travel expense voucher form to reconcile the expenses charged on the credit card and to document the travel. All rules for meals and lodging contained in this policy apply to the use of the City credit card.

Transportation

- A. All travel shall be by the most direct route.
- B. Toll road, toll bridge, ferry charges and other non-air transportation (taxicabs or buses) are reimbursable to employees when accompanied by an official receipt. Only metered parking charges do not require a receipt for reimbursement.
- C. Local transportation such as taxicabs and buses should be used whenever practical. Car rentals are not allowed except under special circumstances. Request for car rentals must be made and approved by the City Manager in advance and justified. Justification shall be attached to the Request for Travel Expense Voucher Form.
- D. Advance payment for air or rail accommodations is possible when advance payment results in cost savings to the City. Payments requiring a City Purchase Order shall be made directly to the carrier.
- E. Air or rail accommodations shall be economy class, unless another class is approved in writing by the City Manager, and arrangements shall be made sufficiently far in advance to take advantage of discounted rates requiring advance reservation.

- F. In recognition of the City's status as a member locality of the Shenandoah Valley Regional Airport Commission and the importance of regional and local economies of Shenandoah Valley Regional Airport and local commercial air service originating at the airport, when travel is to be by air, employees shall price and consider travel originating from Shenandoah Valley Regional Airport. In addition to cost of air accommodations, consideration shall also be given to cost of mileage and parking, ground travel time, and convenience and duration of connections and routing.
- G. When travel is to be by automobile, City automobiles will be used whenever possible. Gas and oil required in the use of a City vehicle shall be obtained from the Equipment Maintenance Shop or at other City facilities. Department Directors may authorize the use of a City of Staunton fuel credit card for longer trips in City vehicles only. City vehicles are to be used for official business only when employed for travel. Official business includes travel to and from the conference/school and any transportation necessary in conjunction with the conference/school, such as transportation to and from eating establishments or off-site meetings/tours.
 - i. Reimbursement for use of personal automobiles will be made at the current IRS mileage rate in effect at the time of travel only when a City vehicle is not available or when an employee's physical disability is such that she must use his or her own vehicle.
 - ii. A MapQuest or Google Maps printout must be attached to the mileage reimbursement request to document the number of miles claimed.
 - iii. The City shall reimburse employees only for necessary mileage to and from the conference site and appropriate incidental travel. Mileage incurred for non-job related travel shall not be reimbursed.
 - iv. If it is determined travel could be made at a more economical rate than allowed automotive mileage reimbursement, the employee will be reimbursed only for the lesser amount.
 - v. Employees required to travel during the week as part of their normal duties will be reimbursed for mileage from one location to another, but not for mileage from home to the first location for the day, nor for mileage to home from the last location for the day. Reimbursement will be made at the current IRS mileage rate at the time of travel only when a City vehicle is not available. The mileage must be reported on the daily staff travel log, with a MapQuest or Google Maps printout documenting the mileage claimed.

Lodging

- A. Unless prior approval has been received from the Department Director/Designee or City Manager, expenses for lodging shall not be allowed at sites located within 80 miles or less from administrative offices.
- B. Receipts for the cost of lodging are required. Reimbursement shall be on a usual and customary basis as dictated by the particular situation and must be supported by receipts. Employees are expected to use reason in incurring these expenses.
- C. Lodging costs greater than usual and customary for the area may be authorized by the nature or circumstance of the business required. Prior written request and approval must be obtained from the Department Director/Designee prior to making such arrangements. In the case of a Department Director, approval must be granted by City Manager.
- D. Lodging costs for any period prior to or following the official dates of the business or conference are normally the responsibility of the employee. Exceptions will be considered if the first or last scheduled activity requires more than 80 miles of travel (to attend or return) that cannot be accomplished in the normal workday. In all cases specific approval must be obtained from the Department Director/Designee prior to the travel.

Meals and Subsistence

- A. Meal costs will be reimbursed in accordance with Internal Revenue Service guidelines. Accordingly, meals will only be reimbursed when traveling overnight away from home as defined by the Internal Revenue Service. Under that definition, the costs of meals will be reimbursed only in the following circumstances:
 - i. Your duties require you to be away from the general area of your tax home substantially longer than an ordinary day's work, and;
 - ii. You need to sleep or rest to meet the needs of your work while away from home. (This rest requirement is not satisfied by merely napping in your car.)
- B. Generally, for City employees, these conditions would only be met for work-related travel that requires him/her to be away from home overnight. Employees traveling shall be expected to take full advantage of all meals included in the cost registration for seminars, conference and conventions. Reimbursement will not be made for meals costs incurred for meals that were available as part of the event.
- C. Overnight travel allowances will be paid in accordance with the IRS High-Low Substantiation Method. The maximum amount for overnight travel allowance, meals and all tips, shall be limited to the rate established by the IRS each year. If the conference provides for a dinner or luncheon, the maximum allowance shall be one-half of the daily allowance per day. If the conference provides for both lunch and dinner, there is no allowance for that day. No receipts are required.
- D. If permission is granted for an overnight stay at a lodging site 80 miles or less from administrative offices, a meal allowance for travel the night before or the day after will not be provided.
- E. A higher daily allowance for meals and incidental expenses for overnight travel in certain U.S. cities or geographical areas as defined by the IRS Tax Code is authorized. A complete list of high-cost localities is available on the intranet's Finance Department page.
- F. The 24-hour period begins at any time of day or night that the employee leaves the administrative area to embark upon overnight travel on official business.
- G. Reimbursement for alcoholic beverages is not permitted; any charges for alcoholic beverages shall be deducted from the total amount expended before being submitted for reimbursement. City credit cards may not be used for the purchase of alcohol under any circumstances.
- H. Any deviation from the overnight travel allowance must be approved by the Department Director/Designee, and in no instance shall it exceed the amount for high-cost localities described in paragraph C.
- I. Travel expenses charged to City credit cards will be paid at the amount stated on the card statement. Employees are still required to adhere to the limitations for travel expenses as stated above. There will be no payment to an employee for the difference between the stated allowances and the actual cost.
- J. Reimbursement for travel expenses shall be made only when receipts are presented as required. Receipts are not required when all appropriate information has been provided as described in subsection "Funds for Travel and Subsistence Expenses" and a meal allowance has been given. If the employee chooses to present actual receipts for reimbursement, the following guidelines apply:
 - i. A maximum twenty percent (20%) tip is allowed per meal.
 - ii. Detailed receipts must be presented for meals, not just credit card receipts.
 - iii. No reimbursement will be made for purchase of alcoholic beverages.

Employees who purchase meals using a City credit card shall be required to submit a detailed meal receipt and a credit card receipt as justification for the expense. City credit card payments for meals are not allowed when the daily allowance is given to an employee.

- K. If the detailed receipt is not attached to the credit card bill when presented for payment, the employee will be required to reimburse the City for the amount of the meal.
- L. If a tip in excess of twenty percent (20%) is charged on the credit card, the employee will be required to reimburse the City for the amount charged in excess of the allowed percentage.

Luncheon or Dinner Meetings

- A. When a luncheon or dinner involves personnel either from another municipality or private enterprise working directly with City personnel on a City project, justification may be submitted for reimbursement for cost of guest's meal. Final determination shall be made by City Manager.
- B. The use of petty cash for luncheons or dinner meetings is not permitted.

Special Provisions

- A. Conference and convention registration fees are reimbursable when official representation is required. Registration fees shall be paid in advance as direct charges to the City whenever possible. Registration and meals costs for spouses or family members are the responsibility of the employee.
- B. Employees may be reimbursed for miscellaneous official expenses such as telephone, Internet connectivity, certified or registered mail, and money order charges incurred. Reasonable personal telephone expenses to the employee's home shall be permitted. Receipts and written documentation of the expenses are required.
- C. Department Directors/Designees, or employees required to transfer prisoners, who are required to expend funds in the course of their official duties on behalf of others (such as meals) may be reimbursed. Written explanation with the signature or approval of the Department Director/Designee must accompany the travel expense voucher form with all receipts attached.

Employer provided meals

- A. In some instances, meals may be provided to employees. Employer provided meals are excludable from the wages of the employee if they are provided:
 - i. On the employer's business premises and;
 - a. Employer business premises is defined as the place where the employer or employee conducts a significant portion of his or her duties. Business premises includes locations such as City Hall or the public works facility.
 - ii. For the convenience of the employer.
 - a. Convenience of the employer is defined as a meal provided for a business reason and is not intended as compensation to the employee.
 - b. This includes providing meals so that the employee is available for emergency calls. You must be able to show that an emergency occurred or can reasonably be expected to occur. The nature of the business requires short meal periods and the employee is not expected to be able to obtain meals elsewhere in that short time period. Meals may be provided directly after working hours if the business purpose requires the employee to stay and work through the meal period.
- B. De Minimis Meals can be excluded if the meal has so little value accounting for it would be unreasonable or administratively impractical. These meals must be infrequent in nature and unusual in occurrence. Examples include:

- Safety lunch
- Quarterly service pin luncheon
- Christmas lunch
- Pastries, tea or coffee provided at a meeting

Use of City Credit Cards/Credit Card Procedures

Credit cards are issued to City employees as requested by their supervisor. Use of these cards is not a right, but is provided as a convenience, primarily for use in travel and training situations, and for approved on-line purchases. It is the responsibility of each user to adhere to the following policy:

Credit Card Issuance

Credit cards will be issued as requested by the Supervisor and approved by the Chief Financial Officer or their designee. Requests must be submitted to the Credit Card Program Administrator (Program Administrator) in writing using the Credit Card Request Form and shall be accompanied by a fully executed copy of the City of Staunton Credit Card Agreement by the cardholder.

No Department cards will be issued. All cards will bear the name of the individual responsible for the card (Cardholder). The employee's signature on the Credit Card Agreement denotes that they have read and will abide by the City Code and the rules and procedures as stated herein.

When the Credit Card is received by the Program Administrator, the card is inactive. The Cardholder will be contacted upon receipt of the card and will be required to come to the Finance Department to pick up their card. The Cardholder will be required to show photo identification and sign for receipt of his/her card. The Cardholder will be responsible for activating their card using their unique number assigned by the Program Administrator.

Credit Card Limits And Uses

Each Credit Card will have a unique dollar limit, which will be provided to the Cardholder. Should a Cardholder believe their limit needs to be increased, they must notify the Program Administrator immediately to ensure no over-limit fees are incurred. The Program Administrator will be responsible for notifying the Cardholder's supervisor.

Individual cards are limited to business expenses related to the Cardholder's official duties for the City incurred while travelling and other authorized purchases specified herein.

The following additional terms apply:

- NO cash advances, meals, or alcoholic beverages may be charged.
- No charges/fees which more appropriately should be purchased by check request or Purchase Order may be charged. Examples of such charges/fees are: Recurring yearly/monthly charges, charges for items/services with companies which accept City Purchase Orders.
- NO computer or other IT-related equipment is to be purchased on a credit card without the express WRITTEN consent of the IT Director.
- Credit cards will not be used to bypass/circumvent purchasing policy.
- It is the cardholder's responsibility to ensure no tax is charged to either a store or internet purchase. Taxes charged will be the responsibility of the cardholder.

Travel And Entertainment Expenses

Credit Cards may be used to reserve flights and rooms for authorized travel. Travel advances should still be requested for meals and other expenses (e.g., mileage) associated with travel. (See also Travel Policy.)

Travel expenses paid with the City Credit Card **MUST** follow all guidelines stated in the City's travel Policy. For example:

- Travel must be approved in advance.
- Receipts for all expenses must be kept and the purpose of each trip and names of participants should be noted for all transportation, parking, and lodging charges.
- Lodging is the only item that should be charged a sales tax.
- Meals for overnight travel should **NOT** be charged to the credit card. A travel advance should be requested.

Preparation of Monthly Credit Card Invoices

- It is the cardholder's responsibility to obtain and retain receipts for all purchases, including internet purchases.
- Monthly bills are to be printed by individual Cardholders, verified and returned to Finance Department, Accounts Payable, within 48 hours of notification by Program Administrator to ensure that payments are made on time and late fees are avoided. Late fees are the responsibility of the Department and consecutive late fees for 2 months on any card shall result in loss of cardholder privileges.
- Failure to retain and provide any receipt will result in non-payment and the charge will be the responsibility of the individual cardholder.
- Each receipt must have the ledger code to be charged clearly written on the receipt. Small receipts must be taped to 8 ½" X 11" paper to ensure receipt is not lost and can be easily scanned by accounts payable.
- Invoices must be in the same order as charges on the statement and the total shall be reconciled to the outstanding balance.
- Statement shall be clearly marked with the total for each ledger code being charged.

Deactivation of Cards

When an employee using a credit card terminates employment, the Department Director or designee should retrieve their individually-named card. Cards should be sent to the Program Administrator to be shredded and cancelled.

Disputes And Fraudulent Charges

- The Cardholder will be responsible for resolving any disputed charges. Cardholder should attempt to resolve the dispute at the merchant level prior to contacting Truist Customer Service.
- If the dispute cannot be resolved at the merchant level, it should be fully documented in writing. The item in question should be circled on the statement, an explanation of the discrepancy should be given, and all documentation forwarded to the Program Administrator.
- If merchandise is returned or if there is an adjustment to the charge, a copy of the credit slip should be forwarded to the Finance Department, Accounts Payable, with the monthly invoice.

- All unresolved disputes still need to be paid for and coded properly, including any associated late fees. Once the dispute is resolved, charges along will be credited back to the account and the late fees will be waived.
- Timeliness of the reporting of errors and problems is imperative as only 60 days from the transaction date is allowed to report errors and fraudulent charges.
- When credits by vendors are to be issued on subsequent statements, include a copy of the credit receipt. All credits will be followed up on to ensure they were received from the vendor.
- If there are fraudulent charges on the credit card, please contact Truist Customer Support immediately and then notify the Program Administrator.

Declined Purchasing Cards

If the credit card is declined at the point of sale, call the toll-free number on the back of the card or contact the Program Administrator. The declined purchase may also be researched by logging into the Truist Site. In most circumstances, the bank will be able to locate the problem and approve the purchase. If not, please make the purchase using another method.

You will be notified as to why the card was declined. Reasons could include the vendor is not a credit card vendor, the vendor may have entered the account number or expiration date incorrectly, or you may have exceeded your monthly dollar limit or your single transaction limit.

Periodic Audits

At any time, the Finance Department may perform audits of the credit card statements and all financial records in connection with the credit card program.

Misuse of Cards

Failure to comply with the credit card procedures contained in this policy may result in the City Manager suspending or revoking the Cardholder's ability to use a City credit card. Misuse of the card will result in disciplinary action up to and including termination of employment, and may result in a referral to the appropriate law enforcement if there is a reasonable suspicion that criminal activity such as embezzlement may have occurred.

The City Manager reserves the right to revoke any Cardholder's privilege at any time and for any non-discriminatory reason.

Credit Card Informational Contact

If you have questions concerning new cards, policies, procedures, limits, general ledger codes, or need to cancel a card, etc., contact the Credit Card Program Administrator at 540-332-3819.

2.20 PERSONNEL FILES

Personnel files contain written material about an employee's employment. Documents within a personnel file may include, but are not limited to, employment applications, job specifications, compensation information, performance evaluations, disciplinary actions, commendations, and certifications. Written information related to employment is considered a personnel file regardless of where the record might be physically located. Official personnel files for each City employee are maintained in the Human Resources Department. Individual departments may also maintain files relevant to departmental

employees. However, upon request of the Chief Human Resources Officer, a copy of an employee's departmental file must be provided to the Human Resources Department.

All medical information, including, but not limited to, Family and Medical Leave Act certifications, ADA materials including requests for accommodations, and drug/alcohol testing results, is maintained in files physically separated from personnel files.

In accordance with the Government Data Collection and Dissemination Practices Act (GDGCPA), every employee has a right to view their personnel file. However, an employee is not entitled to review or obtain copies of recommendations or reference letters by third parties or copies of any test or examination used for purposes of evaluation of an employee or applicant's qualifications for employment, retention, or promotion. In addition, employees may challenge, correct, and/or include a written statement to provide information related to any document in the personnel file pursuant to the process provided for in the GDGCPA.

2.21 AMERICANS WITH DISABILITY ACT POLICY

The Americans with Disabilities Act (ADA) and the Americans with Disabilities Amendments Act (ADAAA) are federal laws that prohibit discrimination against applicants and employees with disabilities and, when needed, to provide reasonable accommodations to applicants and employees who are qualified for a job, with or without reasonable accommodations, so that they may perform the essential job duties of the position.

It is the policy of the City of Staunton to comply with all federal and state laws concerning the employment of individuals with disabilities; including those associated with pregnancy childbirth or related medical conditions and to act in accordance with regulations and guidance issued by the Equal Employment Opportunity Commission (EEOC). Furthermore, it is the city's policy not to discriminate against qualified individuals with disabilities; including those related to pregnancy, childbirth or related medical conditions in regard to application procedures, hiring, advancement, discharge, compensation, training or other terms, conditions and privileges of employment.

2.22 PREGNANT WORKERS POLICY

As required by the federal Pregnant Workers Fairness Act (PWFA) and the Providing Urgent Maternal Protections (PUMP) Act, the City of Staunton will provide reasonable accommodations to employees and applicants with limitations related to pregnancy, childbirth or related medical conditions, unless the accommodation will cause undue hardship to the City's operations.

Accommodation Policy

An employee or applicant may request an accommodation due to pregnancy, childbirth or a related medical condition by submitting the request in writing to the Department of Human Resources. The accommodation request should include an explanation of the pregnancy-related limitations, the accommodation needed and any alternative accommodation(s) that might be reasonable. Depending on the nature of the accommodation, the individual may be requested to submit a statement from a health care provider substantiating the need for the accommodation.

Upon receipt of a request for accommodation, the Department of Human Resources will contact the employee or applicant to discuss the request and determine if an accommodation is reasonable and can be provided without significant difficulty or expense, i.e., undue hardship.

An employee may request paid or unpaid leave as a reasonable accommodation under this policy; however, the City will not require an employee to take time off if another reasonable accommodation can be provided that will allow the employee to continue to work.

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

Expression Policy

Upon request, the City shall designate a non-restroom location in each facility as an area in which any mother who is employed by the City may take breaks of reasonable length during the work day to express milk to feed her child until the child reaches the age of one, unless an accommodation pursuant to the PWFA requires a longer time period. The area must be shielded from public view and free from intrusion by means of either locking the door to the area or placing a sign on the door indicating that lactation is in progress and no one may enter.

Additionally, the area must be in reasonable proximity to the employee's usual work area, is regularly cleaned, has electricity, appropriate seating, and a surface sufficient to place a breast pump; and the area is in reasonable proximity to a sink, running water, and a refrigerator for storing milk.

3.1 RESPONSIBILITIES

The City workforce exists to provide essential services to the community. The whole City organization is committed to hiring and retaining the most qualified workers to provide reliable, quality, and cost-efficient services to the community in a respectful and friendly manner.

Management Responsibilities

In keeping with the respect due each employee, City management is committed to:

- provide effective and efficient delivery of services;
- compensate employees fairly for work done;
- provide safe, healthy work conditions in accordance with provisions of all applicable law;
- adequately instruct and train employees in their duties;
- supply proper materials and equipment;
- provide reasonable opportunities for developmental experience and competitive advancement; and
- actively engage in equal employment opportunity activities.

Employee Responsibilities

An employee shall:

- meet the reasonable expectations of City management;

- report to work regularly, reliably and on time;
- consistently meet or exceed performance standards and duties established for their job;
- apply themselves in a professional, cooperative, safe, and friendly manner; and
- conduct themselves on and off the job so as to deserve the respect and trust of City management and the community.

3.2 PERFORMANCE STANDARDS

Every employee is expected to consistently maintain satisfactory performance standards. Continuing performance deficiencies may lead to discipline, including termination. Generally, problems should be addressed by the mutually cooperative efforts of the supervisor and the employee to analyze and solve the deficiency. Those efforts include but are not limited to:

- an analysis of the problem;
- a determination of needed changes and assistance; and
- implementation of a corrective plan of action and establishment of achievement dates.

If performance standards are not met within a reasonable period of time, the employee, depending upon the reason for failure, may be subject to disciplinary action procedures outlined in Section 3.9. The specific action taken will determine what, if any, appeal rights are available to the employee.

3.3 UNACCEPTABLE CONDUCT

Disciplinary action will be taken when appropriate to correct an employee's misconduct or poor work performance in an effort to promote maximum utilization of an employee's potential. Disciplinary action will be progressive when possible, recognizing that extreme policy violations can result in immediate disciplinary measures including termination.

The following types of conduct are unacceptable and may be cause for disciplinary action in the form of reprimand, suspension, demotion, or termination, depending upon the facts and circumstances of each case. The examples given are typical but not all-inclusive.

- A. Unsatisfactory attendance. Every employee is expected to be working for the City during all work hours assigned by the employee's supervisor. This is exemplified by, but is not limited to, the following violations:
 - unexcused absence or tardiness, or patterns thereof;
 - failure to give notice of an absence or tardiness to the supervisor from within two hours before to within 30 minutes after starting time, consistent with applicable law and department policy;
 - absence or tardiness that causes significant curtailment or disruption of service without sufficient excuse or justification.
- B. Job abandonment. This occurs when an employee deliberately and without excuse or authorization is absent from the job, or refuses a legitimate order to report to work, for three consecutive work days. The employee is deemed to have abandoned his job and may be terminated.
- C. Indifference towards work. This is exemplified by, but is not limited to, the following violations:
 - inattention, inefficiency, sleeping, carelessness, or negligence;

- failure to remain at one's work station, leaving work without permission, or taking excessive time or more time than allowed for eating or break periods;
- performance of personal business during working hours;
- interference with the work of others;
- discourteous or irresponsible treatment of the public or other employees.

D. Safety violations. This is exemplified by, but is not limited to, the following violations:

- failure to follow City or departmental safety rules and regulations;
- failure to use required safety apparel;
- removal or circumvention of a safety device;
- lifting in an unsafe manner;
- operation of vehicle or other equipment in an unsafe manner;
- of the Smoke and Vape-Free Workplace policy;
- endangering one's own safety or that of others by careless or irresponsible actions or negligence;
- failure to report an on-the-job injury, vehicle accident, or unsafe work condition;
- possession of a firearm or other weapon in the workplace unless by an active law enforcement officer or expressly authorized in writing by the City Manager. However, an employee may store a lawfully possessed firearm and ammunition in their locked vehicle in accordance with the Code of Virginia Section 15.2-915.

Workplace includes any office, building, property, garage or parking lot reserved exclusively for employees, or site at which an employee performs work for the City.

E. Dishonesty or Fraud. This is exemplified by, but is not limited to, the following violations:

- acceptance of money or anything of value from a person subject to the regulatory decision or supervision of the employee;
- cheating, forging, or willful falsification of official City reports or records;
- false reporting of the reason for paid leave of absence;
- any other falsifying action detrimental to the City or fellow employees;
- conflict of interest. Any action not in conformance with policy 3.5 (Code of Ethics/Conflict of Interest);
- concealment of pertinent information relevant to a city transaction or investigation.

F. Theft. Regardless of item value, this is exemplified by, but is not limited to, the following violations;

- unauthorized taking of City property or the property of others;
- unauthorized use of City or employee funds;
- using or authorizing the use of City equipment or employee services for other than official City business;
- using or authorizing the use of City equipment or employee services without proper authority;
- taking, and/or having knowledge of, supplies, products and materials, including those damaged or scrapped, being removed from their normal location, City's premises or worksites without the written consent of the supervisor or other designee named by the Department Director and/or having knowledge of the same.

G. Insubordination. This is exemplified by, but is not limited to, the following violations:

- failure or refusal to follow the specific and reasonable orders or instructions of a supervisor or higher authority; or

- Working overtime hours not authorized by the employee's supervisor; or
- pursuit of a denied request to a higher authority without revealing the lower-level disposition; provided that:

If the employee believes an instruction or order is improper, they should obey the instruction or order and communicate to a higher authority later, or

If the employee believes the instruction or order, if followed, would result in physical injury to the employee or others or damage to City equipment or would constitute possible criminal or illegal conduct, the employee should request approval by the next higher level of supervision before performing the work, unless the danger complained about is inherent in the job.

H. Disturbance. This is exemplified by, but is not limited to, the following violations:

- fighting, horseplay, or boisterous conduct;
- deliberate causing of physical injury to another employee or citizen;
- intimidation;
- unnecessary disruption of the work area;
- use of profane, abusive, threatening, or loud and boisterous language;
- sexual harassment or harassment based on protected characteristics.
- spreading of false reports or unauthorized dissemination of confidential information;
- other disruption of the harmonious relations among employees or between employees and the public.

I. Abuse of City property. This is exemplified by, but is not limited to, the following violations:

- negligent damage or destruction of City equipment or property;
- waste of materials or negligent loss of tools or materials;
- improper maintenance of equipment;
- damage caused by use of tools or equipment for purposes other than that for which the tool or equipment was intended;
- defacing of City property;
- unauthorized alteration, removal, destruction, or disclosure of City records;
- interference with the public use of or access to City services, properties, or buildings or;
- inappropriate use of city-issued computers/cell phones/equipment (may be subject to search).

In addition to appropriate disciplinary action, the employee may be responsible for the repair or replacement of any damaged item or property. Failure to reimburse the City may be cause for termination.

J. Misconduct. This is exemplified by, but not limited to, any offense, during or off working hours, which could have an adverse effect on the City or on the confidence of the public in City government.

K. Disregard of public trust. This is exemplified by, but not limited to, any conduct during or off working hours, which could impair the public's confidence or trust in the operation of City government.

L. Any violation of a policy in this manual or a departmental or administrative policy.

3.4 DRUG AND ALCOHOL-FREE WORKPLACE

Policy Statement

The City of Staunton is dedicated to providing safe, dependable, and economical services to our citizens. Employees are our most valuable resource and it is our goal to provide a healthy, satisfying working environment, which promotes personal opportunities for growth. In meeting these goals, it is our policy to:

- Assure that employees are not impaired in their ability to perform assigned duties in a safe, productive, and healthy manner;
- Create a workplace environment free from the adverse effects of drug abuse and alcohol misuse;
- Prohibit the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances; and
- To encourage employees to seek professional assistance anytime personal problems, including alcohol or drug dependency, adversely affect their ability to perform their assigned duties.

Purpose

This policy is intended to comply with all applicable federal regulations governing workplace anti-drug and alcohol programs. Legal references for this document are listed in Attachment 3.4.1

Employees will be provided copies of the corresponding federal regulations upon request.

The City has chosen to apply the United States Department of Transportation's (DOT) Federal Motor Carrier Safety Administration (FMCSA) procedures to FMCSA regulated safety sensitive employees (CDL), and City-mandated safety-sensitive positions. This policy refers to all employees; employees that are neither FMCSA regulated, nor City mandated safety sensitive positions should refer to section Q as it relates to testing requirements and standards. Questions about any of these programs should be directed to the appropriate City contact person listed in Attachment 3.4.2.

Applicability

This policy applies to all employees of the City of Staunton when they are on City property or when performing any safety-sensitive or non-safety-sensitive business. The policy applies to off-site lunch periods or breaks when an employee is scheduled to return to work.

Covered positions are designated as FMCSA-regulated, City mandated safety-sensitive positions, and all other positions. A list of FMCSA-regulated and City mandated safety-sensitive positions is located in Attachment 3.4.3.

A FMCSA covered position is one that requires the operation of a commercial motor vehicle (CMV) in any state and the individual must:

- a. Operate a non-revenue service vehicle that requires the driver to hold a Commercial Driver's License (CDL), or*
- b. Be subject to the commercial driver's license requirements of Part 383, as amended, and*
- c. Actually drive, or intend to drive, a commercial motor vehicle on public roads.*

As amended, the regulations define a FMCSA safety-sensitive function is as:

- a. All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer. This includes employees who are "eligible" at work to drive a CMV at any time, e.g., salespersons, clerks, secretaries, supervisors.*
- b. All time inspecting equipment as required by 392.7, "Equipment, Inspection, and Use," and 392.8, "Emergency Equipment and Use," or otherwise inspecting, servicing, or conditioning any CMV at any time.*
- c. All driving time, which is any time spent at the driving controls of a CMV in operation.*
- d. All time, other than driving time, in or upon any CMV except time spent resting in a sleeper berth.*
- e. All time loading or unloading a vehicle, supervising or assisting in loading or unloading, attending a vehicle being loaded or unloaded, remaining ready to operate the vehicle, or giving or receiving receipts for shipments loaded or unloaded.*
- f. All time repairing, obtaining assistance for, or remaining with a disabled vehicle.*

Note: A position is deemed a FMCSA covered position if the individual may be required to drive a CMV at any time.

Employee and Supervisor Training

Every covered employee will receive a copy of this policy and it is also available on City of Staunton's Intranet. In addition, all covered employees will undergo training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

Supervisors will also receive reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

Training records will be maintained for at least the minimum time period as outlined in 49 CFR Part 40, as amended.

Prohibited Substances

Prohibited substances addressed by this policy include the following:

A. Illegally Used Controlled Substance or Drugs under the Drug-Free Workplace Act of 1988 or the Controlled Substance Act.

The illegal use of any controlled substance is prohibited at all times unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opiates, phencyclidine (PCP), and cocaine as well as any drug not approved for medical use by the U.S. Drug

Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legal prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana, or the use of hemp related products, as which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy.

The City of Staunton will follow the minimum thresholds as set by the Department of Health and Human Services and; for FMCSA-regulated positions the minimum thresholds defined in 49 CFR Part 40, as amended.

B. Legal Drugs

The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a supervisor.

A legally prescribed drug means that individual has a prescription or other written approval from a physician for the use of a drug in the course of medical treatment. It must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization. The misuse or abuse of legal drugs while performing business for the City is prohibited.

Also, the use of medical marijuana and hemp products which present levels of drugs or drug metabolites above the DOT minimum thresholds is considered a violation of this policy.

C. Alcohol

The use of beverages containing alcohol or any other substance such that alcohol is present in the body while performing safety-sensitive or non-safety sensitive job functions is prohibited. An alcohol test can be performed on a covered employee just before, during, or just after the performance of a safety-sensitive or non-safety sensitive job function.

Prohibited Conduct

All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.

Each covered employee is prohibited from consuming alcohol while performing safety-sensitive, or non-safety sensitive job functions or while on-call to perform safety-sensitive functions. If an on-call employee has consumed alcohol or used legally prescribed drugs which may impair their ability to work, they must acknowledge the use of alcohol/prescribed drugs at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline. Off duty employees, not subject to on-call but called back for emergency purposes, must notify their supervisor prior to performing any work if they believe, or they are, in fact in violation of the City's Drug and Alcohol Free Workplace/Testing Policy. Any employee who was legally using alcohol or prescribed drugs under such circumstances will not be held in violation of the City's Drug and Alcohol Free Workplace/Testing Policy only as long as they notify their supervisor prior to performing any work set forth above.

The City shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.

Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive or non-safety sensitive functions while having an alcohol concentration of .02 or greater regardless of when the alcohol was consumed.

No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever comes first.

No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

Consistent with the Drug Free Workplace Act of 1998, all employees of the City of Staunton are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the work place including department premises, vehicles, or while performing related business.

All employees are required to notify City management of any criminal drug/alcohol statute conviction within five days after such conviction.

Drug Testing Procedures

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Parts 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result. A negative dilute test result will require a re-test.

A. Cost of Testing/Retesting:

The cost of testing will be borne by the City. An employee or applicant may, at his/her own expense, request a retest; however, the City reserves the right to make all final employment decisions regardless of test or retest results as provided by law. Any request for a retest must be made within seventy-two (72) hours of receiving notification of a positive test. The employee will be required to prepay for any retest within five calendar days of the employee's request. If the employee fails to prepay in such time, the employee shall forfeit his/her right to obtain such an additional test. Payment shall be made to the department of Human Resources. The City will reimburse the employee if the original test result was inaccurate.

B. Observed collections:

Consistent with 49 CFR Part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:

- i. The Medical Review Officer (MRO) orders the direct observation because:
 - The employee has no legitimate medical reason for certain atypical laboratory results; or
 - The employee's positive or refusal [adulterated/substituted] test result had to be cancelled because the split specimen test could not be performed (for example, the split was not collected).
- ii. The employee attempts to tamper with his or her specimen at the collection site.

- The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen.
 - The specimen shows signs of tampering - unusual color / odor / characteristics.
 - The specimen temperature is outside the acceptable range.
- iii. The test is a Follow-Up test or a Return-to-Duty test.

Alcohol Testing Procedures

Testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. A trained Breath Alcohol Technician (BAT) will conduct the test utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT).

Compliance with Testing Requirements

Any covered employee who is suspected of providing false information in connection with a test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of falsifying test results will result in termination.

Test Refusal - A refusal to test constitutes a verified positive test result.

Refusals include but are not limited to:

- Failure to appear for any test within a reasonable time, as determined by the employer after being directed to do so by the employer (except a pre-employment test);
- Failure to remain at the testing site until the testing process is complete (an employee who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused to test);
- Failure to provide a urine specimen for any drug test required by this part or DOT agency regulations;
- Failure to provide a sufficient amount of urine when directed, and it has been determined, through a required medical evaluation, that there was no adequate medical explanation for the failure;
- Failure or decline to take an additional drug test the employer or collector has directed you to take;
- Failure to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or employer. In the case of a pre-employment drug test, the employee is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment. If there was no contingent offer of employment, the MRO will cancel the test;
- Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, fail to wash hands after being directed to do so by the collector);
- In the case of a directly observed or monitored collection in a drug test, failure to permit the observation or monitoring of your provision of a specimen;
- For an observed collection, failure to follow the observer's instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- Possessing or wearing a prosthetic or other device that could be used to interfere with the collection process;
- Admitting to the collector or MRO that you have adulterated or substituted the specimen;

- Failure or refusal to sign Step 2 of the alcohol testing form;
- Leaving the scene of an accident without just cause prior to submitting to a test.

Treatment Requirements

All employees are encouraged to make use of the available resources for treatment for alcohol misuse and illegal drug use problems. Under certain circumstances listed in section M., Consequences, employees may be required to undergo treatment for substance abuse or alcohol misuse. Any employee who refuses or fails to comply with policy requirements for treatment, after care, or return-to-duty shall be terminated. The cost of any treatment or rehabilitation services will be paid for directly by the employee or their insurance provider. Employees will be allowed to take accumulated paid leave to participate in the prescribed rehabilitation program.

The City of Staunton encourages employees who need assistance dealing with controlled substance and/or alcohol abuse problems to seek the appropriate treatment.

Records Management

Record Retention: It is the policy of the City of Staunton to maintain all covered employees' records pertaining to the Drug and Alcohol Program for at least the minimum time period as outlined in 49 CFR Part 40, as amended.

All drug and alcohol testing records will be maintained in a secure manner so that disclosure of information to unauthorized persons does not occur. Information will only be released in the following circumstances:

- to a third party only as directed by specific, written instruction of the employee;
- to the decision-maker in a lawsuit, grievance, or other proceeding initiated by or on the behalf of the employee tested;
- to a subsequent employer upon receipt of a written request from the employee as required by FMCSA for those regulated employees;
- to the National Transportation Safety Board during an accident investigation;
- to the DOT or any DOT agency with regulatory authority over the employer or any of its employees;
- to the employee, upon written request.

Records will be released if requested by a Federal, state or local safety agency with regulatory authority over the City or the employee.

If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40, as amended, necessary legal steps to contest the issuance of the order will be taken.

Information pertaining to an employee's drug or alcohol test will be released without the employee's consent in certain legal proceedings. These proceedings include a lawsuit (e.g., a wrongful discharge action), grievance (e.g., an arbitration concerning disciplinary action taken by the employer), or administrative proceeding (e.g., an unemployment compensation hearing) brought by, or on behalf of, an employee and resulting from a positive DOT drug or alcohol test or a refusal to test (including, but not limited to, adulterated or substituted test results). These proceedings also include a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information sought is relevant to the case and issues an order directing the employer to produce the information. In such a proceeding, the City will only release the information to the decision maker in the proceeding (e.g., the court in a lawsuit). This

information will only be released with a binding stipulation that the decision maker to whom it is released will make it available only to parties to the proceeding.

Employment Assessment

Any covered employee who tests positive for the presence of illegal drugs or alcohol above the minimum thresholds set forth in 49 CFR Part 40, as amended, will be referred for evaluation by a Substance Abuse Professional (SAP). An SAP is a licensed or certified physician, psychologist, social worker, employee assistance profession, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders. The SAP will evaluate each employee to determine what assistance the employee needs in resolving problems associated with prohibited drug use or alcohol misuse. No employee will be allowed to return-to-duty requiring the performance of safety-sensitive job functions without the approval of the SAP.

Consequences

As soon as practicable after receiving notice of a verified positive drug test result, a confirmed alcohol test result, or a test refusal, the Designated Employer Representative will contact the employee's supervisor to have the employee cease performing any safety-sensitive or non-safety sensitive function.

Any covered employee who refuses to comply with a request for testing shall be removed from duty and terminated.

An employee who is relieved of his/her duties as a result of a positive alcohol or drug test shall not be permitted to operate a motor vehicle. Every attempt shall be made to locate a family member or friend to transport the employee home. If this is unsuccessful, a supervisor may transport the employee home or shall make arrangements for the employee to take public transportation or a taxi may be called. Any transportation expenses incurred by the supervisor are reimbursable by the City.

A thorough review of the circumstances will be conducted prior to determining if disciplinary action shall be taken. The disciplinary action will depend on the severity of the offense and the employee's work history.

Disciplinary action shall be based on the following guidelines:

ALCOHOL

BAC greater than 0.02 but less than 0.04
Removal from job and possible suspension without pay.

BAC equal to or greater than 0.04
Referral to an SAP for assessment and formulation of a treatment plan and possible termination of City employment.

DRUG

Positive Result
Referral to an SAP for assessment and formulation of a treatment plan and possible termination from City employment.

Searches

Where there is reasonable cause to do so, including a belief that there is a violation of the City's Drug and Alcohol Free Workplace/Testing Policy, the City reserves the right to search, without employee consent, all City property. As such, employees should have no expectation of privacy in City property and employees are warned not to put in such property any item which the employee may not want the City to see upon search. City property includes any property which the City has provided to the employee, including but not limited to desks, closets, bookcases, lockers, file cabinets, and/or City vehicles.

FMCSA Covered Positions (CDL)

A. Testing Requirements

Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40, as amended. All covered employees shall be subject to testing prior to employment, for reasonable suspicion, following an accident, and random. All covered employees who have tested positive for drugs or alcohol on a random, reasonable suspicion or post-accident will be tested prior to returning to duty after completion of the Substance Abuse Professional's (SAP) recommended treatment program and subsequent release to duty. Follow-up testing will also be conducted following return-to-duty. The frequency and duration of the follow-up testing will be at the discretion of the SAP.

All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of employment. Any covered employee who refuses to comply with a request for testing shall be removed from duty, and terminated. Any covered employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of the above listed actions will be considered a test refusal.

B. Pre-Employment Testing and Information Disclosure

All applicants for covered positions are required to submit to urine drug testing prior to hire or transfer into a safety-sensitive position. Receipt by the City of a negative drug test result is required prior to performance of a safety-sensitive duty. If a pre-employment test is canceled, the applicant is required to take and pass another pre-employment drug test. Evidence of the absence of drug dependency from an SAP that meets the approval of the DOT and negative pre-employment drug tests will be required prior to further consideration for employment. The cost for assessment and any subsequent treatment will be the sole responsibility of the individual.

Pre-employment alcohol testing will follow the procedures described in 49 CFR Part 40, as amended. Testing will be conducted after the employer makes a contingent offer of employment or transfer subject to the employee passing this alcohol test. Testing must be before the first performance of a safety-sensitive function for every covered employee. The result of the employee's test should indicate an alcohol concentration of less than 0.02.

In addition, FMCSA requires all covered employees who are removed from the random pool and have been off duty for 30 or more days for any reason to successfully pass a pre-employment drug test prior to the performance of a safety-sensitive function.

A pre-employment/pre-transfer test will also be performed anytime an employee's status changes from an inactive status in a covered position to an active status in a covered position (i.e., return from Worker's Comp, return from leave of absence).

To be considered for employment, all applicants will be asked to give consent to the City for release of information from the applicants' previous DOT covered employer over the past three years for both inter-state and intra-state drivers. The information requested will include:

1. Alcohol test results 0.04 or higher alcohol concentration;
2. Verified positive drug tests;
3. Refusals to be tested (including verified adulterated or substituted drug test results);
4. Other violations of DOT agency drug and alcohol testing regulations;
5. Information obtained from previous employers of a drug and alcohol rule violation;
6. With respect to any employee who violated a DOT drug and alcohol regulation, documentation of the employee's successful completion of DOT return-to-duty requirements (including follow-up tests).

C. Reasonable Suspicion Testing

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

- Reasonable suspicion referrals must be made by one supervisor who is trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. A reasonable suspicion drug test can be performed any time the covered employee is on duty. The employee will not be allowed to proceed alone to or from the collection site. A supervisor or other appropriate personnel shall accompany the employee to and from the collection site. Only a physician and/or medical provider can order a re-test beyond the original test.

D. Post-Accident Testing

All covered employees will be required to undergo urine and breath testing if they are involved in an accident with a City vehicle (regardless of whether or not the vehicle is in revenue service) that results in a fatality and/or medical transport. This includes all surviving safety-sensitive employees that operated the vehicle and any other whose performance could have contributed to the accident.

In addition, a post-accident alcohol test will be conducted if the driver receives a citation within eight (8) hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved: injuries requiring immediate medical treatment away from the scene of the accident; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.

A post-accident controlled substances test will be conducted if the driver receives a citation within thirty-two (32) hours of the occurrence under state or local law for a moving traffic violation arising from the accident, if the accident involved: injuries requiring immediate medical treatment away from the scene of the accident; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.

- Individual refers to an employee, pedestrian, passenger on the vehicle or person in the other vehicle(s)
- Disabling damage (to all vehicles involved) means that as a result of the occurrence a vehicle is transported away from the scene by a tow truck or other vehicle. Disabling damage does not include damage to headlights, taillights, turn signals, horn, windshield wipers, and tires or other damage that could be remedied temporarily at the scene of the accident without special tools or parts.

This definition is not directed at vehicle collisions exclusively; it also includes incidents such as passenger or pedestrian injuries when the individual requires immediate transport to a medical treatment facility.

- As soon as practicable following an accident, as defined in this policy, the City employee investigating the accident will notify the covered employee operating the vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The accident investigator will make the best determination using the best information available at the time of the decision.
- The covered employee shall be tested as soon as possible, but no longer than eight (8) hours after the accident for alcohol, and within thirty-two (32) hours for drugs. If an alcohol test is not performed within two (2) hours of the accident, the supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within eight (8) hours, or the drug test within thirty-two (32) hours, attempts to conduct the test must cease and the reasons for the failure to test must be documented.
- Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or, to obtain necessary emergency medical care.
- If the City is unable to perform a DOT drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), the City may use drug and alcohol post-accident test results administered by state and local law enforcement officials. The state and local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with state and local law.
- The employee will not be allowed to proceed alone to or from the collection site. A supervisor or other appropriate personnel shall accompany the employee to and from the collection site.
- The supervisor or other appropriate personnel is responsible for recording the activity performed that supports the determination to conduct a post-accident test.

E. Random Testing

All covered employees will be subjected to random, unannounced testing. The selection of employees for random drug and alcohol testing will be made using a scientifically valid method that ensures each covered employee that they will have an equal chance of being selected each time selections are made. A computer based random number generator will be used. Selection allows no discretion by City personnel as to who is selected or notified to proceed for testing. The random tests will be unannounced and spread throughout the year. Tests can be conducted at any time during an employee's shift (i.e. beginning,

middle, and end). Employees are required to proceed immediately to the collection site upon notification of their random selection.

The annual random testing rate is shown in Attachment 3.4.4.

F. Return-To-Duty Testing

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released to duty by the SAP before reinstatement of employment. An SAP is a licensed physician or certified psychologist, social worker, employee assistance professional, or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse. The SAP must also have clinical experience in the diagnosis and treatment of drug and alcohol related diseases. Before scheduling the return-to-duty test, the SAP must assess the employee and determine if the required treatment has been completed.

G. Follow-Up Testing

Covered employees will be required to undergo frequent, unannounced drug and alcohol testing following their return-to-duty. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The SAP will determine the frequency and duration of the follow-up tests according to the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

City-Mandated Safety-Sensitive Covered Positions (Non-CDL)

A. Testing Requirements

Analytical urine drug testing and breath testing for alcohol will be conducted as described by 49 CFR Part 40, as amended. All covered employees shall be subject to testing prior to employment, for reasonable suspicion, following an accident, and random. All covered employees who have tested positive for drugs or alcohol on a random, reasonable suspicion or post-accident will be tested prior to returning to duty after completion of the Substance Abuse Professional's (SAP) recommended treatment program and subsequent release to duty. Follow-up testing will also be conducted following return-to-duty for a period of one to five years, with at least six tests performed during the first year. The frequency and duration of the follow-up testing will be at the discretion of the SAP.

All covered employees will be subject to urine drug testing and breathe alcohol testing as a condition of employment. Any covered employee who refuses to comply with a request for testing shall be removed from duty, referred to an SAP and subject to discipline. Any covered employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of the above listed actions will be considered a test refusal.

B. Pre-Employment Testing and Information Disclosure

All applicants for covered positions are required to submit to urine drug testing prior to hire or transfer into a safety-sensitive position. Receipt by the City of a negative drug test result is required prior to performance of a safety-sensitive duty. If a pre-employment test is cancelled, the applicant is required to take and pass another pre-employment drug test. Evidence of the absence of drug dependency from an SAP that meets the approval of the DOT and negative pre-employment drug tests will be required prior to

further consideration for employment. The cost for assessment and any subsequent treatment will be the sole responsibility of the individual.

Pre-employment alcohol testing will follow the procedures described in 49 CFR Part 40, as amended. Testing will be conducted after the employer makes a contingent offer of employment or transfer subject to the employee passing this alcohol test. Testing must be before the first performance of a safety-sensitive function for every covered employee. The result of the employee's test should indicate an alcohol concentration of less than 0.02.

In addition, the City requires all covered employees who are removed from the random pool and have been off duty for 90 or more days for any reason to successfully pass a pre-employment drug test prior to the performance of a safety-sensitive function.

A pre-employment/pre-transfer test will also be performed anytime an employee's status changes from an inactive status in a covered position to an active status in a covered position (i.e., return from Worker's Comp, return from leave of absence).

C. Reasonable Suspicion Testing

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

- Reasonable suspicion referrals must be made by one supervisor who is trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. Under the City's authority, a reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty. The employee will not be allowed to proceed alone to or from the collection site. A supervisor or other appropriate personnel shall accompany the employee to and from the collection site. Only a physician and/or medical provider can order a re-test beyond the original test.

D. Post-Accident Testing

All covered employees will be required to undergo urine and breath testing if they are involved in an accident with a City vehicle (regardless of whether or not the vehicle is in revenue service) that results in a fatality and/or medical transport. This includes all surviving safety-sensitive employees that operated the vehicle and any other whose performance could have contributed to the accident.

In addition, a post-accident test will be conducted if an accident results in injuries requiring immediate transportation of an individual to a medical treatment facility; or one or more vehicles incurs disabling damage, unless the operator's performance can be completely discounted as a contributing factor to the accident.

- Individual refers to an employee, pedestrian, passenger on the vehicle or person in the other vehicle(s)
- Disabling damage (to all vehicles involved) means that as a result of the occurrence a vehicle is transported away from the scene by a tow truck or other vehicle. Disabling damage does

not include damage to headlights, taillights, turn signals, horn, windshield wipers, and tires or other damage that could be remedied temporarily at the scene of the accident without special tools or parts.

This definition is not directed at vehicle collisions exclusively; it also includes incidents such as passenger or pedestrian injuries when the individual requires immediate transport to a medical treatment facility.

- As soon as practicable following an accident, as defined in this policy, the City employee investigating the accident will notify the covered employee operating the vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The accident investigator will make the best determination using the best information available at the time of the decision.
- The covered employee shall be tested as soon as possible, but no longer than eight (8) hours after the accident for alcohol, and within thirty-two (32) hours for drugs. If an alcohol test is not performed within two (2) hours of the accident, the supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within eight (8) hours, or the drug test within thirty-two (32) hours, attempts to conduct the test must cease and the reasons for the failure to test must be documented.
- Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or, to obtain necessary emergency medical care.
- If the City is unable to perform a drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), the City may use drug and alcohol post-accident test results administered by state and local law enforcement officials. The state and local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with state and local law.
- The employee will not be allowed to proceed alone to or from the collection site. A supervisor or other appropriate personnel shall accompany the employee to and from the collection site.
- The supervisor or other appropriate personnel is responsible for recording the activity performed that supports the determination to conduct a post-accident test.

E. Random Testing

All covered employees will be subjected to random, unannounced testing. The selection of employees for random drug and alcohol testing will be made using a scientifically valid method that ensures each covered employee that they will have an equal chance of being selected each time selections are made. A computer based random number generator will be used. Selection allows no discretion by City personnel as to who is selected or notified to proceed for testing. The random tests will be unannounced and spread throughout the year. Tests can be conducted at any time during an employee's shift (i.e. beginning, middle, and end). Employees are required to proceed immediately to the collection site upon notification of their random selection.

The annual random testing rate is shown in Attachment 3.4.5.

F. Return-To-Duty Testing

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released to duty by the SAP before reinstatement of employment. An SAP is a licensed physician or certified psychologist, social worker, employee assistance professional, or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse. The SAP must also have clinical experience in the diagnosis and treatment of drug and alcohol related diseases. Before scheduling the return-to-duty test, the SAP must assess the employee and determine if the required treatment has been completed.

G. Follow-Up Testing

Covered employees will be required to undergo frequent, unannounced drug and alcohol testing following their return-to-duty. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The SAP will determine the frequency and duration of the follow-up tests according to the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

City Employees not covered by FMCSA or City Mandated Safety Sensitive Positions

A. Testing Requirements

Analytical urine drug testing and breath testing for alcohol will be conducted as described by 49 CFR Part 40, as amended. All covered employees shall be subject to testing prior to employment and for reasonable suspicion. All covered employees who have tested positive for drugs or alcohol on a random or reasonable suspicion test will be tested prior to returning to duty after completion of the Substance Abuse Professional's (SAP) recommended treatment program and subsequent release to duty. Follow-up testing will also be conducted following return-to-duty for a period of one to five years, with at least six tests performed during the first year. The frequency and duration of the follow-up testing will be at the discretion of the SAP.

All covered employees will be subject to urine drug testing and breathe alcohol testing as a condition of employment. Any covered employee who refuses to comply with a request for testing shall be removed from duty, referred to an SAP and subject to discipline. Any covered employee who is suspected of providing false information in connection with a drug test, or who is suspected of falsifying test results through tampering, contamination, adulteration, or substitution will be required to undergo an observed collection. Verification of the above listed actions will be considered a test refusal.

B. Pre-Employment Testing and Information Disclosure

Pre-Employment testing does not apply to this section's covered employees based upon the job functions of the positions covered under this section of the policy.

C. Reasonable Suspicion Testing

All covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon

specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse.

- Reasonable suspicion referrals must be made by one supervisor who is trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. Under the City's authority, a reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty. The employee will not be allowed to proceed alone to or from the collection site. A supervisor or other appropriate personnel shall accompany the employee to and from the collection site. Only a physician and/or medical provider can order a re-test beyond the original test.

D. Post-Accident Testing

Post-accident testing does not apply to this section's covered employees. However, employees involved in an accident while conducting City business or in a City vehicle may be tested if reasonable suspicion is present from the events of the accident.

E. Random Testing

Random testing does not apply to this section's covered employees based upon the job functions of the positions covered under this section of the policy.

F. Return-To-Duty Testing

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released to duty by the SAP before reinstatement of employment. An SAP is a licensed physician or certified psychologist, social worker, employee assistance professional, or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse. The SAP must also have clinical experience in the diagnosis and treatment of drug and alcohol related diseases. Before scheduling the return-to-duty test, the SAP must assess the employee and determine if the required treatment has been completed.

G. Follow-Up Testing

Covered employees will be required to undergo frequent, unannounced drug and alcohol testing following their return-to-duty. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The SAP will determine the frequency and duration of the follow-up tests according to the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

Attachment 3.4.1

Legal References

41 U.S.C. § 81 (Drug-Free Workplace Act of 1988)

49 U.S.C. §§ 31301 and 31306 (Omnibus Transportation Employee Testing Act of 1991)

49 CFR Part 655, as amended (Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations)

49 CFR Part 40, as amended (Procedures for Transportation Workplace Drug and Alcohol Testing Programs)

49 CFR Part 382, as amended (Controlled Substances and Alcohol Use and Testing)

21 U.S.C. § 812 (Controlled Substance Act);

21 CFR Part 1300.11-8 VAC 20-70-280

Cross Reference: Drug Free Workplace Policy

Attachment 3.4.2

System Contacts

Any individual with questions regarding this policy or any other aspect of the City's Drug and Alcohol Testing Program should contact the following representatives:

Chief Human Resources Officer
116 W. Beverley St.
Staunton, Virginia 24401
Phone: 540-332-3920

Assistant Director of Human Resources
116 W. Beverley St.
Staunton, Virginia 24401
Phone: 540-332-3920

Medical Review Officer:
David Krieger, D.O.
57 N. Medical Park Drive
Fishersville, Virginia 22939
Phone: 540-245-7520

Employee Assistance Program:
Sentara Health Plans
Telephone Number: 800-899-8174
sentaraEAP.com

Attachment 3.4.3

Covered Positions by Category			
Public Works	Position Title	CDL	NON-CDL
	Sanitation Equipment Operator	X	
	WTP Operator I II III IV		X
	WTP Chief Operator		X
	Utility Service Technician	X	
	Electrical/Electronic Tech	X	
	Traffic Signal Tech	X	
	Equipment Operator I II III	X	
	Crew Coordinator	X	

	Crew Leader	X	
	Crew Supervisor	X	
	Auto Mechanic I II III	X	
	Auto Mechanic Supervisor	X	
	Utility Service Worker		X
	Trades worker		X
	Sanitation Worker	X	X
	Maintenance Worker	X	
	Utilities Superintendent		X
	Streets Superintendent		X
	Traffic Engineering & Equipment Maintenance Superintendent		X
Parks & Rec	Position Title	CDL	NON-CDL
	Horticulturist	X	
	Asst Supt of Parks	X	
	Supt of Parks	X	
	Equipment Operator I II III	X	
	Crew Coordinator	X	
	Crew Leader	X	
	Crew Supervisor	X	
	Parts Equipment Mechanic	X	
Fire	Position Title	CDL	NON-CDL
	Firefighter/Basic		X
	Firefighter/Enhanced		X
	Firefighter/Intermediate		X
	Fire Lieutenant		X
	Fire Captain		X
	Fire Marshal		X
	Asst. Fire Chief		X
	Fire Chief		X
Police	Position Title	CDL	NON-CDL
	Parking Enforcement Officer		X
	Police Records Clerk		X
	Public Safety Dispatcher		X

	Public Safety Lead Dispatcher		X
	Police Officer		X
	Police Corporal		X
	Police Sergeant		X
	Police Captain		X
	Police Chief		X
Sheriff	Position Title	CDL	NON-CDL
	Chief Deputy Sheriff		X
	Captain		X
	Deputy Sheriff		X

Attachment 3.4.4

Random Testing Rates Policy/Program Guidance

The following chart outlines the annual minimum drug and alcohol random testing rates established¹:

Coverage	Random Drug Testing Rate	Random Alcohol Testing Rate
Federal Motor Carrier Safety Administration [FMCSA] (CDL)	50%	10%
City-Mandated Covered Positions (Non-CDL)	50%	10%

¹ Established testing rates for each DOT Agency are located at <https://www.transportation.gov/odapc/random-testing-rates>.

Attachment 3.4.5

Terms and Definitions

Accident - FTA has clarified its position expanding its interpretation of “operation of a vehicle” to include operation of its lift. The rule defines an accident as an occurrence associated with the operation of a vehicle in which:

- An individual dies; or
- An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident;
- One or more vehicles incur disabling damage as a result of the occurrence and requires removal from the scene by a tow truck or other means.

Adulterated Specimen - A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol - The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication. “Alcohol” includes any product defined as “alcohol” in the Alcoholic Beverage Control Act in the Code of Virginia, Title 4.1, as amended.

Alcohol Use - The consumption of any beverage, mixture, or preparation, including any medication containing alcohol.

Alcohol Concentration - To be expressed in terms of grams of alcohol per 210 liters of breath as measured by an evidential breath-testing device.

Blind Sample or Blind Performance Test - A urine specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from employee specimens, and which is spiked with known quantities of specific controlled substances or which is blank, containing no drugs.

Breath Alcohol Technician - An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).

BAC - Breath alcohol concentration.

Canceled Test - A drug test that has been declared invalid by a Medical Review Officer. A canceled test is not considered positive or negative.

Certified Laboratory - A laboratory certified by the by the U.S. Department of Health and Human Services to perform job-related forensic testing for controlled substances and alcohol.

Chain of Custody - Procedures implemented to account for the integrity of each urine specimen by tracing its handling and storage from the point of specimen collection to the final disposition of the specimen. The procedures shall require that an appropriate Custody and Control Form (CCF) from a Department of Health & Human Services (HHS) certified laboratory be used from time of collection to receipt by the laboratory.

Collection Site - A location designated by the employer where individuals present themselves for the purpose of providing a specimen of their urine to be tested for the presence of controlled substances.

Confirmatory Test for Alcohol - A second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.

Confirmatory Test for Controlled Substances - A second analytical procedure that identifies the presence of a specific controlled substance or metabolite. The confirmatory test is independent of the screen test and uses a different technique and chemical principle from that of the screening test in order to ensure reliability and accuracy.

Covered Position - A duty position or job category that requires the performance of safety-sensitive (covered) functions.

Designated Employer Representative (DER) - An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in

testing. The DER also receives test results and other communications for the employer, consistent with the regulations.

Department of Transportation (DOT) - Department of the federal government which includes the US Coast Guard, Federal Transit Administration, Federal Railroad Administration, Federal Highway Administration, Federal Motor Carrier Safety Administration, Research and Special Programs, and the Office of the Secretary of Transportation.

Dilute Specimen - A specimen with creatinine and specific gravity values that is lower than expected for human urine.

Drug and Alcohol Program Manager (DAPM) - An employee responsible for implementation and management of the drug and alcohol program. The DAPM is responsible for discipline, consequence, and decisions relating to the program. The Director of Transportation is the DAPM for the Department of Public Transportation.

Employee Assistance Program - A program provided to assist employees in dealing with controlled substance or alcohol dependency and other personal problems. Rehabilitation and re-entry to the work force are usually arranged through an EAP.

Evidential Breath Testing Device (EBT) - An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for evidential testing of breath at the 0.02 and 0.04 alcohol concentrations. Approved devices are listed on the NHTSA conforming products list.

Medical Review Officer (MRO) - A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his or her medical history and any other relevant biomedical information.

Negative Dilute - A drug test result, which is negative for the five drugs or drug metabolites but has a specific gravity value lower than expected for human urine.

Negative Result - The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

Positive Result - The result reported by an HHS-certified laboratory when a specimen contains a drug or drug metabolite equal to or greater than the cutoff concentrations indicating evidence of prohibited drug use.

Revenue Service Vehicle - Rolling stock used in providing transit service for passengers.

Split Specimen - A collection in which the urine collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP) - A licensed physician (medical doctor or doctor of osteopathy), or licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium), with knowledge of and clinical experience in the diagnosis and treatment of controlled substance and alcohol related disorders.

Substituted Specimen - A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with normal human urine.

Verified Positive (Controlled Substance Test Result) - A controlled substance test result reviewed by a Medical Review Officer and determined to have evidence of prohibited drug use.

3.5 CODE OF ETHICS/CONFLICT OF INTEREST

The Code of Ethics is intended to provide ethical guidelines for City employees that are responsive to the public needs and preclude even the appearance of impropriety in the performance of the employee's duties. All employees have an obligation to conduct their official duties in a manner that serves the public interest, upholds the public trust and protects and enhances the City's reputation and resources. To this end, consistent with § 2.2-3103 of the Code of Virginia which is incorporated by reference, it is the policy of the City that City employees have a responsibility to:

- A. Perform their duties to the very best of their abilities, treating the public and each other in a courteous, fair manner, without regard to any protected characteristics, or any other factor unrelated to City business. No employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.
- B. Demonstrate integrity, honesty, and ethical behavior in the conduct of all City business.
- C. Ensure that their personal interests do not come into conflict with their official duties, resulting in a real conflict of interest or be reasonably perceived as a conflict of interest when dealing with vendors, customers, and other individuals doing business or seeking to do business with the City.
- D. 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 obligation 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 or other beneficiary. 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, if otherwise authorized.
- E. Ensure that confidential 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.
- F. Ensure that all City resources, including City funds, equipment, vehicles and other property, are used in compliance with City policies and solely for the benefit of the City.
- G. Refrain from use for personal economic benefit, or that of another party, of confidential information acquired by reason of public position and which is not available already to the public.
- H. Refrain from accepting any business or professional opportunity when he knows that there is a reasonable likelihood that the opportunity is being afforded him to influence him in the performance of his official duties.
- I. Avoid any behavior that could fall under the definitions of unacceptable conduct in §3.3 of the Personnel Policy Manual.
- J. Not exceed their authority, breach the law or ask others to do so, and shall work in full cooperation with other employees unless prohibited from doing so by law or by officially recognized confidentiality concerns.
- K. Not use their City position to retaliate or threaten to retaliate against any non-City employee for expressing views on matters of public concern or for exercising any right that is otherwise protected by law.

Department Directors, supervisors and employees at all levels of the organization must take a leadership role in the promotion and execution of the Code of Ethics. All City employees have a responsibility to place cooperation, trust and respect at the forefront of the services provided.

3.6 SOLICITATION

Solicitation and distribution of literature in the workplace and during work hours by employees or non-employees for a private, for-profit purpose is expressly prohibited. Employees are permitted to solicit other employees only during their scheduled break periods and only in areas designated for such break periods. If an employee requests that the soliciting employee cease the solicitation, the employee shall cease the behavior.

Workplace includes any office (to include city email), building, property, garage, or parking lot reserved exclusively for employees or site at which an employee performs work for the City.

3.7 ACCEPTABLE USE OF INFORMATION TECHNOLOGY RESOURCES

Purpose

To ensure appropriate organizational use of information and information technology (“IT”) resources and effective security of those resources requires the participation and support of the organization’s workforce (“users”). Inappropriate use exposes the organization to potential risks including virus attacks, compromise of network systems and services, and legal liability.

Policy

This policy applies to users of any City of Staunton (“City”) system’s information or physical infrastructure regardless of its form or format, created or used to support the organization. It is the user’s responsibility to read and understand this policy and to conduct their activities in accordance with its terms.

Information Statement

Except for any privilege or confidentiality recognized by law, individuals have no legitimate expectation of privacy during any use of the organization’s IT resources or in any data stored on those resources. Information on City IT assets is a matter of public record and subject to inspection by the public and City management. Periodic monitoring of systems used will be conducted by authorized personnel without additional prior notice to users. IT has the right to inspect all files stored on the City’s network or workstations to assure compliance with policy.

The City may impose restrictions, at the discretion of the Chief Technology Officer (CTO), on the use of a particular IT resource.

A. Acceptable Use

All uses of information and information technology resources must comply with City policies, standards, procedures, and guidelines, as well as any applicable license agreements and laws including Federal, State, local and intellectual property laws.

Consistent with the foregoing, the acceptable use of information and IT resources encompasses the following duties:

- i. Understanding the baseline information security controls necessary to protect the confidentiality, integrity, and availability of information;
- ii. Protecting organizational information and resources from unauthorized use or disclosure;
- iii. Protecting personal, private, sensitive, or confidential information from unauthorized use or disclosure;
- iv. Observing authorized levels of access and utilizing only approved IT technology devices or services; and
- v. Immediately reporting suspected information security incidents or weaknesses to the appropriate manager and the CTO/designated security representative.

B. Unacceptable Use:

The following list is not intended to be exhaustive, but is an attempt to provide a framework for activities that constitute unacceptable use. Users, however, may be exempted from one or more of these restrictions during their authorized job responsibilities, after approval from the City Manager or their designee, in consultation with the CTO or designated security representative.

Unacceptable use includes, but is not limited to, the following:

- i. Unauthorized use or disclosure of personal, private, sensitive, and/or confidential information;
- ii. Unauthorized use or disclosure of City information and resources;
- iii. Distributing, transmitting, posting, or storing any electronic communications, material or correspondence that is threatening, obscene, harassing, pornographic, offensive, defamatory, discriminatory, inflammatory, illegal, or intentionally false or inaccurate;
- iv. Attempting to represent the City in matters unrelated to official authorized job duties or responsibilities;
- v. Connecting unapproved devices to the City's network or any IT resource;
- vi. Connecting City IT resources to unauthorized networks;
- vii. Connecting to any wireless network while physically connected to the City's wired network;
- viii. Installing, downloading, or running software that has not been approved following appropriate security, legal, and/or IT review in accordance with City policies;
- ix. Using City IT resources to circulate unauthorized solicitations or advertisements for non-organizational purposes including religious, political, or not-for-profit entities;
- x. Providing unauthorized third parties, including family and friends, access to the City's IT information, resources or facilities;
- xi. Using City IT information or resources for commercial or personal purposes, in support of "for-profit" activities or in support of other outside employment or business activity (e.g., consulting for pay, business transactions);
- xii. Propagating chain letters, fraudulent mass mailings, spam, or other types of undesirable and unwanted email content using City IT resources; Tampering, disengaging, or otherwise circumventing City or third-party IT security controls;
- xiii. Knowingly perform actions that negatively affect City IT assets or other City resources or that negatively affect the User's or other City Users' job performance;
- xiv. Downloading, uploading, or otherwise handling illegal or unauthorized copyrighted content; and
- xv. Peer-to-Peer (P2P) networking, gambling and crypto-mining are not allowed on the City network under any circumstances.

C. Occasional and Incidental Personal Use:

- i. Occasional, incidental and necessary personal use of IT resources is permitted, provided such use: is otherwise consistent with this policy; is limited in amount and duration; and does not impede the ability of the individual or other users to fulfill the organization's and individual employee's responsibilities and duties.

D. Individual Accountability:

- i. Individual accountability is required when accessing all IT resources and City information.
 - ii. Everyone is responsible for protecting against unauthorized activities performed under their user ID.
 - iii. Credentials must be treated as confidential information, and must not be disclosed or shared.
- E. Restrictions on Off-Site Transmission and Storage of Information:

- i. Users must not transmit restricted City, non-public, personal, private, sensitive, or confidential information to or from personal email accounts (e.g., Gmail, Hotmail, Yahoo) or use a personal email account to conduct the organization's business unless explicitly authorized.
- ii. Users must not store restricted City, non-public, personal, private, sensitive, or confidential information on a non-City issued device, or with a third-party file storage service that has not been approved for such storage by the City.
- iii. Devices that contain City information must be attended at all times or physically secured and must not be checked in transportation carrier luggage systems.
- iv. Files containing sensitive data that are transferred in any way across the Internet should be encrypted.

F. User Responsibility for IT Equipment:

- i. Users are routinely assigned or given access to IT equipment in connection with their official duties.
- ii. This equipment belongs to the City and must be immediately returned upon request or at the time an employee is separated from employment with the City.
- iii. Users may be financially responsible for the value of equipment assigned to their care if it is not returned to the City upon the request of the employee's supervisor.
- iv. Should IT equipment be lost, stolen or destroyed, users are required to provide a written report of the circumstances surrounding the incident. Users may be subject to disciplinary action which may include repayment of the replacement value of the equipment.
- v. The City has the discretion to not issue or re-issue IT devices and equipment to users who repeatedly lose or damage IT equipment.

G. IT Equipment and Software Purchases:

- i. All City IT asset purchases needed to conduct City business must be done through City IT staff and are reviewed by the CTO or designee.

H. Personal Storage Media:

- i. Personal storage devices (e.g., USB, disk drives, personal phones) represent a serious threat to data security and are prohibited on the City's network.
- ii. City storage devices should not be used in personal devices.

I. Software Installation:

- i. Users are prohibited from installing unapproved software of City IT assets.
 - ii. Users are prohibited from uninstalling approved software from City IT assets unless directed to by the CTO or designee.
- J. Information Security Awareness Training:
 - i. All users are required to successfully complete general information security awareness training within thirty (30) days of hire.
 - ii. Thereafter, all users are required to complete information security awareness training on an annual or more frequent basis thereafter as determined by the CTO.
 - iii. If users do not complete assigned information security awareness training in the required time frame their computer and network access will be disabled.
- K. Remote Access:
 - i. Users must only use CTO-approved remote access processes and procedures when connecting to City IT assets.
 - ii. Users accessing the organization's applications and IT resources through personal devices must only do so with prior approval or authorization from the CTO.

Compliance

Employees who violate this policy may be subject to appropriate disciplinary action up to and including discharge as well as both civil and criminal penalties. Non-employees, including, without limitation, contractors, may be subject to termination of contractual agreements, denial of access to IT resources, and other actions as well as both civil and criminal penalties.

Policy Exceptions

Requests for exceptions to or interpretations of this policy shall be reviewed by the Chief Technology Officer (CTO). Departments requesting exceptions shall provide such requests to the CTO. The request should specifically state the scope of the exception along with justification for granting the exception, the potential impact or risk attendant upon granting the exception, risk mitigation measures to be undertaken by the IT Department, initiatives, actions and a time-frame for achieving the minimum compliance level with the policies set forth herein. The CTO shall review such requests and confer with the requesting department.

Responsible Department

Information Technology and Information System Owners

3.8 POLITICAL ACTIVITY

For purposes of this policy, “political activities” include but are not limited to voting; registering to vote; soliciting votes or endorsements on behalf of a political candidate or political campaign; expressing opinions, privately or publicly, on political subjects and candidates; displaying a political picture, sign, sticker, badge, or button; participating in the activities of, or contributing financially to, a political party, candidate, or campaign or an organization that supports a political candidate or campaign; attending or participating in a political convention, caucus, rally, or other political gathering; initiating, circulating, or signing a political petition; engaging in fund-raising activities for any political party, candidate, or campaign; acting as a recorder, watcher, challenger, or similar officer at the polls on behalf of a political party, candidate, or campaign; or becoming a political candidate.

The purpose of this policy is to promote public trust and confidence in the City of Staunton’s government by ensuring that it is free of the actual or apparent influence of partisan political affiliations and that employment and advancement in the City are determined by meritorious performance rather than political affiliation. In addition, it protects every employee’s right to vote and to keep this right free from political interference by any co-worker, supervisor, or city official.

City employees may participate in political activities when they are off duty, out of uniform, and not on the premises of their employment with the City.

City employees shall not engage in political activities while performing their official City duties, use any City property or equipment to engage in political activities, to appear as a candidate for elective office while dressed in City uniforms or clothing that identifies the individual as a City employee. This prohibition shall not apply to an employee registering to vote or voting.

City employees shall not use their official authority to coerce or attempt to coerce another City employee to pay, lend, or contribute anything of value to a political party, candidate, or campaign.

The City shall not discriminate against any employee or applicant for employment because of that individual’s political affiliations or participation in political activities.

City employees shall not discriminate in the provision of public services or responding to requests for such services on the basis of political affiliation or political activities of the person or organization for which the services are provided or required.

City employees shall not suggest or imply that a locality has officially endorsed a political party, candidate, or campaign.

3.9 DISCIPLINARY PROCEDURE

Disciplinary actions shall be administered, whenever possible, in an increasingly progressive nature in order to attempt to correct an employee’s unsatisfactory work performance or misconduct before a termination is initiated. Prior to implementing formal disciplinary action, supervisors are encouraged

to use methods such as counseling and/or informal verbal notices to inform an employee that a problem exists and to discuss possible corrective actions before formal disciplinary action is needed. The steps of progression generally are: 1) verbal warning, 2) written reprimand, 3) suspension, 4) demotion or termination. The severity of the initial disciplinary action taken, including the possibility of immediate termination, shall be in keeping with the nature and gravity of the offense, the relationship to the employee's assigned duties and responsibilities, the employee's work record, and any circumstances which may have caused the breach of discipline. It is not necessary that a progression of disciplinary actions, from less severe to most severe, be followed. The City reserves the right to administer disciplinary appropriate to the severity of the behavior and is not bound to follow a progression of disciplinary actions.

Department Directors should, if at all possible, discuss proposed disciplinary actions other than verbal and written reprimands with the Chief Human Resources Officer prior to taking action to ensure consistency of application throughout the City.

A. Disciplinary Actions

- i. Verbal Warning - Whenever grounds for disciplinary action exist and the supervisor determines that more severe action is not required or not yet warranted, the supervisor shall meet with the employee to inform the employee of the nature of the problem and the necessary action to correct it. The supervisor shall document the basic conversation, if at all possible, for the supervisor's own records.
- ii. Written Reprimand - When a situation rises to the level of a written reprimand, the supervisor should hold a meeting with the employee, issue a written reprimand to the employee, and warn the employee that additional causes for disciplinary action could result in more severe disciplinary action. A copy of the reprimand shall be placed in the employee's official personnel file.
- iii. Suspension - When a situation rises to the level of a suspension, the supervisor may, with the concurrence of the City Manager, suspend a non-exempt employee without pay. Verbal notice of the suspension may be given to the employee immediately and written notice made not later than one day after the effective date of the suspension. A copy of the suspension notice shall be placed in the employee's official personnel file.

A supervisor may, with the concurrence of the City Manager, suspend a non-exempt employee with or without pay in accordance with the suspension provisions listed above pending the results of an investigation for a suspected violation of law or City policy. The supervisor shall make every effort to complete the investigation in an expedient manner. An employee's base wage and benefits for the time of unpaid suspension will be reinstated in the event the employee is cleared of the suspected offense. Additionally, if the employee is cleared of the suspected offense, no record of the offense or investigation shall be maintained in the employee's personnel file.

- iv. Demotion or termination - When a situation rises to the level of a demotion or termination of employment, a supervisor may, with the concurrence of the City Manager, demote and reduce the salary of an employee as a disciplinary measure if an authorized vacancy exists or recommend termination of employment.

B. Administrative Guidelines

- i. The progressive disciplinary actions described above may be applied to an employee who is experiencing a series of unrelated problems involving job performance and/or misconduct.

- ii. Depending on the severity of the misconduct, including but not limited to, a violation of City policy or procedure, a violation of law, or any action by an employee which is not in the best interest of the City, progressive discipline may be disregarded. The supervisor may recommend immediate suspension or termination of the employee.
- iii. After meeting with the employee to discuss the disciplinary action taken, the supervisor should, if at all possible, document the basic conversations and action taken or recommended and its justification.
- iv. It is advisable to have all disciplinary actions signed or initialed by the employee upon presentation or mailed by certified mail with return receipt requested as proof that the employee has knowledge of the action.

C. Grievance Procedure

Disciplinary action imposed pursuant to this policy may be grieved in accordance with policy 9.1 Grievance Procedure. Enforcement officers may elect to have grievance through either the City's grievance procedure or the law-enforcement officer's procedural guarantees pursuant to the Code of Virginia, but not both.

3.10 HARASSMENT

All employees are valued and deserve to be treated with dignity and respect. As an employee, you are expected to treat each other, and all those with whom you come in contact during your working time, in a professional manner.

Employees must never act in a disrespectful or inappropriate manner, or otherwise cause coworkers to feel uncomfortable in the work environment in violation of this policy. Harassment, sexual or otherwise, is determined by individual actions and how they affect others, regardless of the intent. A hostile work environment is a workplace that is sufficiently severe or pervasive to create a working environment that a reasonable person would consider intimidating, hostile or abusive. This policy applies during working time, after hours while with other employees, and/or when the behavior that occurs after hours impacts an employee's fulfillment of the job due to misconduct that would otherwise violate this policy.

The City of Staunton is committed to maintaining equal employment opportunity and a professional and harmonious working environment free from harassment of any kind. Harassment of any kind is prohibited, whether that harassment be sexual harassment or harassment based on protected characteristics..

It shall be a violation of this policy for any harassment to occur or for any personnel to tolerate or not report known harassment by personnel or third parties in or with regard to the employment environment. To avoid confusion and misunderstandings in the workplace, the City of Staunton expressly prohibits discussions, comments or behaviors of a sexual nature, epithets, disparaging medical conditions or religion, opposing or disparaging protected characteristics, inappropriate touching, comments about someone's age, and/or dating a subordinate employee who reports within your chain of command, even if consensual.

Behaviors prohibited in this policy apply equally to all employees, regardless of whether the conduct is believed to be welcome and/or whether it is between individuals of similar protected characteristics.

For the purpose of this policy, its terms apply to all boards or commissions of the City, their employees, or agents, volunteers, contractors or other persons subject to the supervision and control of the City, City Council, or the City Manager.

The City shall: (1) promptly investigate all complaints, written or verbal, of sexual harassment and harassment based on protected characteristics; (2) promptly take appropriate action to stop any harassment; (3) take appropriate action against any covered person who violates this policy; and (4) take any other action reasonably calculated to end and prevent further harassment.

Definitions

A. Harassment

The term harassment includes, but is not limited to, any unwelcome verbal, written, or physical act which would make a reasonable person uncomfortable in the work environment and which could create a hostile, intimidating or offensive work environment thereby interfering with the employee's ability to perform his or her job and/or interfering with the individual's employment opportunities with the City of Staunton.

B. Sexual Harassment

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

- submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment; or
- submission to or rejection of the conduct or communication by an individual is used as a factor in decisions affecting that individual's employment; or
- that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment, or creating an intimidating, hostile or offensive employment environment (i.e., the conduct is sufficiently severe, persistent or pervasive to limit an employee's ability to participate in or benefit from the work environment).

Examples of conduct which may constitute sexual harassment include:

- unwelcome, sexually motivated or inappropriate touching, patting, pinching or other physical contact
- unwelcome sexual flirtation, advances or propositions
- sexual slurs, leering, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
- graphic verbal comments about an individual's body, or overly personal conversation of a sexual nature
- sexual jokes, notes, stories, drawings, gestures or pictures
- spreading sexual rumors
- touching an individual's body or clothes in a sexual way
- displaying sexually suggestive objects, pictures, cartoons or posters
- impeding or blocking movement in a sexual manner

- C. Harassment Based on Protected Characteristics: Harassment based on protected characteristics consists of physical or verbal conduct relating to an individual's protected characteristics when the conduct:

- has the purpose or effect of creating an intimidating, hostile or offensive working environment; or
- has the purpose or effect of substantially or unreasonably interfering with an individual's work; or
- otherwise adversely affects an individual's employment opportunities.

Examples of conduct which may constitute harassment based on protected characteristics include:

- use of offensive language;
- related name calling, jokes or rumors;
- physical acts of aggression against a person or his property because of that person's protected characteristics;;
- slurs, negative stereotypes or hostile acts which are based on another's protected characteristics and; written or graphic material containing comments or stereotypes which is posted or circulated and is intended to degrade individuals based on their protected characteristics.

Complaint Procedure

A. File Report

Any person who believes they have been the victim of harassment by personnel or a third party should report the alleged harassment as soon as possible to a member of department or City management or to the Chief Human Resources Officer/Assistant Director of Human Resources . Any person who has noticed that an employee may have been the subject of prohibited harassment must immediately report the alleged harassment to a member of department or City management or the Chief Human Resources Officer/Assistant Director of Human Resources .

Regardless of whether you feel comfortable speaking with the offending party, or you wish to speak with someone else as discussed below, *you must respond immediately and not ignore the problem. The City of Staunton cannot do anything to help you unless it is made aware of the issues.* If you experience or witness conduct that you believe is in violation of the City's policy, you are encouraged to speak with the offending party, if you are comfortable doing so, to explain your objection to the behavior. The offensive conduct may have been thoughtless and/or insensitive or based on a mistaken belief that it was welcome. However, you are not required to speak to the person you believe is in violation of this policy before bringing the matter to the City of Staunton's attention.

If you feel uncomfortable speaking with the person that you feel is in violation of this policy, and/or you addressed it with the person and you still want the City of Staunton to be aware of the conduct, you should immediately report the conduct in the following manner: The reporting party should make complaints of harassment in writing, if possible; however, oral reports will also be accepted. A complaint may be filed with any City supervisor, director or manager, who must immediately forward any report of alleged prohibited harassment to the Chief Human Resources Officer/Assistant Director of Human Resources\ . Any complaint about the Chief Human Resources Officer/Assistant Director of Human Resources or Assistant or Deputy City Manager must be reported to the City Manager. Any complaint about the City Manager or other council appointee must be reported to the Mayor or another member of City Council.

The complaint and identity of the complainant and alleged harasser will not be disclosed except as required by law or policy, or as necessary to fully investigate the complaint or as authorized by the complainant.

Employees should also use this procedure regarding any work-related harassment or discrimination by non-employees (i.e., vendors).

Mandatory Reporting Obligations

All employees have a mandatory obligation to promptly report harassment, whether as a victim or as an observer. Reporting potential policy violations may be oral, and do not need to be in writing. Under no circumstances shall the individual alleging harassment be required to file a complaint with the alleged harasser.

Any City of Staunton supervisor/manager who receives a complaint or a concern brought to their attention by another employee or who may witness or become aware of any form of discrimination or harassment occurring in the city, is responsible for immediately reporting it to the Chief Human Resources Officer/Assistant Director of Human Resources.

Supervisors/managers who allow workplace harassment to continue or fail to take appropriate, corrective action upon becoming aware of the harassment may be considered parties to the offense, even though they may not have engaged in the harassment behavior and be disciplined consistent with this policy.

Investigation

Upon receipt of a report of alleged prohibited harassment, the Chief Human Resources Officer/Assistant Director of Human Resources or designee shall immediately authorize or undertake an investigation. The investigation may be conducted by City personnel or a third party designated by the Chief Human Resources Officer/Assistant Director of Human Resources. The investigation shall be completed as soon as practical, but not later than ten (10) business days after receipt of the report unless circumstances are deemed to necessitate a more immediate investigation.

The investigation may consist of personal interviews with the complainant, the alleged harasser, and any others who may have knowledge of the alleged harassment or the circumstances giving rise to the complaint. The investigation may also consist of the inspection of any other documents or information deemed relevant by the investigator. The City will take necessary steps to protect the complainant and others pending the completion of the investigation.

In determining whether alleged conduct constitutes a violation of this policy, the City will consider, at a minimum: (1) the surrounding circumstances; (2) the nature of the behavior; (3) past incidents or past or continuing patterns of behavior; (4) the relationship between the parties; (5) how often the conduct occurred; (6) the identity of the alleged harasser in relation to the alleged victim (i.e., positions of power); (7) the location of the alleged harassment; (8) the ages of the parties; and (9) the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a case-by-case determination based on all of the relevant facts and circumstances following a complete and thorough investigation.

All employees will cooperate with any investigation of alleged harassment conducted under this policy or by an appropriate state or federal agency. Failure to cooperate with an investigation may result in disciplinary action.

Appeal

A. Meeting with Investigating Representative

If an aggrieved party is not satisfied that a complaint has been resolved satisfactorily, the aggrieved party may request a meeting with the investigating representative. Following the meeting, the investigating representative will inform the aggrieved party of the decision on a complaint.

B. Appeal to the Chief Human Resources Officer/Assistant Director of Human Resources.

The initial decision on a complaint may be appealed by the aggrieved party to the Human Resources Director within three (3) business days following receipt of the initial decision. The written appeal shall state precisely the reasons for dissatisfaction with the decision and shall be limited to the matter under appeal. Upon receipt of the appeal, the Chief Human Resources Officer/Assistant Director of Human Resources shall review the complaint and inform the aggrieved party in writing of the decision. The Chief Human Resources Officer/Assistant Director of Human Resources may at his or her discretion have a meeting with the investigator as part of the review of the appeal. If the investigating representative is the Chief Human Resources Officer/Assistant Director of Human Resources the appeal may be submitted to the City Manager.

C. Appeal to City Manager

If the Chief Human Resources Officer/Assistant Director of Human Resources determines that no prohibited harassment occurred, the aggrieved party may appeal this finding to the City Manager or designee by filing a written request not later than five (5) calendar days after receipt of the Chief Human Resources Officer's/Assistant Director of Human Resource's decision. The written appeal shall state precisely the reasons for dissatisfaction with the decision. Notice of appeal must be filed with the Chief Human Resources Officer/Assistant Director of Human Resources, who will forward relevant portions of the record to the City Manager. The City Manager or designee shall make a decision within 30 calendar days of receiving the record. The City Manager or designee may ask for oral or written arguments from the aggrieved party, the Chief Human Resources Officer/Assistant Director of Human Resources and any other individual deemed relevant. The City Manager or designee will notify the aggrieved party of the decision and will send a letter to the aggrieved party explaining the decision.

Employees may choose to pursue their complaints under this policy through the relevant employee grievance procedure instead of the complaint procedure in this policy.

Compliance Officer

The City designates the Chief Human Resources Officer/Assistant Director of Human Resources as the Compliance Officer responsible for identifying, preventing and remedying prohibited harassment.

The Chief Human Resources Officer/Assistant Director of Human Resources will:

- receive reports or complaints of harassment;

- oversee the investigation of any alleged harassment;
- assess the training needs in connection with this policy;
- arrange necessary training to achieve compliance with this policy; and
- ensure that any harassment investigation is conducted by an appropriate investigator who is trained in the requirements of equal employment/education opportunity, including the authority to protect the alleged victim and others during the investigation.

Retaliation

Retaliation against personnel who report harassment or participate in any related proceedings is prohibited. The City will take appropriate action against personnel who retaliate against any personnel who reports alleged harassment or participates in related proceedings.

Right to Alternative Complaint Procedure

Nothing in this policy denies the right of any individual to pursue other avenues of recourse to address concerns relating to prohibited harassment including filing a grievance or a complaint with outside agencies or seeking redress under state or federal law.

Prevention and Notice of Policy

Training to prevent harassment in the workplace should be included in employee orientations as well as employee in-service training.

False Allegations

Personnel who make false allegations of harassment may be subject to disciplinary action.

Equal Employment Opportunity Commission

For more information about harassment as it relates to Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA) and the Americans with Disabilities Act of 1990 (ADA), contact the Equal Employment Opportunity Commission at 1-800-669-4000.

Legal References:

Americans with Disabilities Act of 1990;
 Age Discrimination in Employment Act of 1967;
 Title VII of the Civil Rights Act of 1964;
 Section 504 of the Rehabilitation Act of 1973

3.11 FACILITY ACCESS AND SECURITY

In a continuing effort to improve customer service and security, the City of Staunton has developed a policy for door security by means of employee photo identification (ID) badge access. The goal of this policy is to secure all exterior/interior doors including high risk/high value rooms and to provide an extra level of customer service and security by requiring City of Staunton employees to display their photo ID badges (when practical). This badge will allow customers to quickly identify an individual as a City of Staunton employee, and for those employees who have access cards, to gain entry to controlled access points at city facilities.

This policy defines how City of Staunton employees will assist in maintaining security through the proper use of identification and access ID badges.

Identification/Access ID badges

General/Identification

The City issued photo ID badge shall contain, at a minimum, the employee's picture, name, position and department. Identification and Access ID badges are the property of the City and may be revoked at any time. Certain departments may require an authorization signature from the department head and/or an issue and expiration date on the ID badge. Photos taken to be used for ID badges are considered part of the employee's electronic personnel file. Identification photos will not be used for any purpose other than employee photo ID badges or security measures unless written authorization is provided.

Lost or stolen badges shall be reported immediately to the Human Resources Department. Employees shall have an updated photograph taken not less than once every five (5) years from the date of the last photograph which coincides with the expiration date of the ID badge.

All on-duty City employees (full-time, part-time, seasonal, volunteers and interns) will be required to wear their City issued photo ID badge when practical. This badge will be worn face forward in full view on or over the outermost garment, at or above the waist line at all times.

City employees who are off-duty, but who are entering into an area within the City building or facility in which the public doesn't normally have access, must wear their City issued photo ID badge in accordance with this policy.

Each department will be responsible for ensuring that badges are worn as required. Upon approval from the Department Director or designee, individual departments may exempt their employees from wearing their ID badge while out in the field if those employees are required to wear a uniform that clearly identifies them as a City employee. These employees, however, are required to carry their photo ID while in the field in order to provide further identification. Violations of this policy may result in disciplinary action up to and including termination.

Access

Access ID badges are to be used to gain entry to controlled access points as determined by the City Manager or designee and department head. Access control shall be determined by a reasonable need to have access to an employee-only area or other area so determined by the City Manager or designee and department head to have controlled access.

Access ID badges add more security options than keys through programming that can restrict access by both location and time, and maintain a record of the location and time the access ID badge is used. Access ID badges allow entry by presenting the card in close proximity to the card reader.

Departments such as Police and Fire, which by law or necessity are required to have employee ID badge requirements that are more stringent than what is contained in this policy, shall not have their policies superseded by any provision(s) contained within this policy.

Responsibilities

The City Manager or designee shall be responsible for:

- Establishing guidelines for the implementation of this policy and updating this policy on a regular basis.
- Ensuring department head or designee review quarterly reports to confirm employee level and eligibility.
- Providing, establishing and maintaining ID badges and appropriate access control (if applicable) for City Council members.

The Human Resources Department shall be responsible for:

- Taking initial and updated photos of employees (excluding Police and Fire Departments if applicable) for identification purposes, no less than once every five (5) years.
- Processing ID/Access badges based on written notification through individual departments. Badges will be issued by the Human Resources Department to new City employees within a reasonable amount of time after the start of their employment.

Information Technology Department shall be responsible for:

- Designing identification/access badges with Human Resources and the City Manager's Office.
- Software/hardware related to identification/access badges.
- Providing quarterly reports to department heads to review employee access level and eligibility.

Departments in general shall be responsible for:

- Department heads/designee should be responsible for reviewing quarterly employee access level and eligibility.
- Submitting written notification for new employees and/or for replacement identification/access badges.
- Administrative Leave: An employee who is placed on administrative leave, the department head/designee is responsible for retrieving the employee's identification/access badge, and notifying Human Resources and Information Technology Departments so the employee's credentials can be temporarily deactivated in the security system no later than the first day of administrative leave.
- Termination: Retrieving a terminating employee's identification/access badge and notifying the Human Resources and Information Technology Departments so the terminating employee's credentials can be deactivated in the security system no later than the date of termination.

Employees shall be responsible for:

- Understanding that the identification/access badge has been issued for the purposes of employment and agreeing that the badge will be used only for employment with the City and for employment-related purposes.
- Acknowledging the identification/access badge must be in their possession during work hours and agreeing that they are responsible for any use of their card.
- Understanding that identification/access badges are an integral part of security for City facilities and, as such, agreeing that allowing others to use their badge or allowing others unaccompanied access or unauthorized access to any secured area is prohibited.
- Agreeing not to replicate and/or duplicate a city access badge or having someone else replicating and/or duplicating a city access badge.
- Agreeing that if their identification/access badge is lost, they will immediately report the lost badge to their supervisor who will notify Human Resources immediately. The supervisor will then make a written request to the Department Director for authorization of a replacement.
- Acknowledging that malfunctions of the identification/access badge shall be reported immediately to the supervisor.
- Understanding that failure to comply with the provisions outlined in this policy may result in disciplinary action up to and including termination.
- Agreeing to, upon separation from the City, return their identification/access badge to their supervisor or Human Resources Department.

3.12 WORKPLACE VIOLENCE

The City of Staunton is committed to maintaining a safe, healthy work environment where employees, visitors and customers are free from the threat of workplace violence. No employee shall engage in any act that threatens the safety of an employee, visitor or customer, affects the health, life or well-being of an employee, visitor or customer or results in damage to City or customer property. Such actions and incidents will not be tolerated under any circumstances. If such an incident occurs, anyone found to have violated this policy will be subject to disciplinary action, which may include termination.

The City of Staunton Workplace Violence Policy applies to all employees regardless of funding, status or category and to all volunteers, unpaid interns or others working under the supervision of the City.

Guidelines

- A. Organizational Responsibility: The City actively supports the prevention of workplace violence through the allocation of appropriate resources for assessment, training and intervention. The City takes acts or threats of workplace violence seriously and will promptly investigate and act on reports of violent acts or threats. While unfounded or vindictive accusations of workplace violence will not be tolerated, no one who reports a valid incident will be subject to reprisals or retaliation.
- B. Departmental Responsibility: Each City Department and/or Division shall work with Human Resources and the Police Department to complete regular site assessments and take appropriate

action to correct to the extent possible with available resources, any physical problems that may create potential safety hazards.

- C. **Managerial Responsibility:** Managers and supervisors shall work in partnership with employees to maintain a safe, effective working environment. Managers and supervisors shall attend training on identifying and defusing workplace conflicts.
- D. Managers and supervisors must intervene when they see behavior or actions in conflict with a safe and violence-free workplace regardless of the person engaging in such behavior. Where there is imminent danger, managers and supervisors shall immediately call 911.

Managers and supervisors shall evaluate and investigate as needed if an incident of workplace violence is reported, is suspected of occurring or has actually occurred. Managers and supervisors shall follow up with employees to ensure that safety practices and procedures are consistently followed.

- E. **Employee Responsibility:** Employees are expected to treat other people and property with respect. In most cases employees perform as expected and demonstrate conduct that reflects credit upon themselves, their coworkers and the City of Staunton. When employees fail to conduct themselves in such a manner it may become necessary to intervene as a means of correcting the behavior or ending the employment relationship.

In the event of an immediate threat or commission of a crime, employees shall immediately call 911. Employees are expected to promptly report threats or incidents of workplace violence to their supervisor or other available City official. When there is imminent danger to persons or property, employees are encouraged to take reasonable action to safeguard persons or property without putting themselves or others in danger.

Prohibited Behavior

- In keeping with this policy, the City of Staunton prohibits any employee from engaging in acts of violence. Such acts include, but are not limited to:
- Verbally, physically or through social media threatening, bullying, intimidating, coercing, harassing or assaulting an employee, visitor, customer or citizen;
- Sexually harassing an employee, visitor, customer or citizen; and
- Acts that damage, or attempt to damage, City property or the property of an employee, visitor, customer or citizen.

Carrying, Display, and Use of Weapons

The possession of a properly permitted concealed weapon is not prohibited so long as it is in accordance with Policy 3.3 of these personnel policies. However, an employee may not use a weapon to engage in acts of violence or engage in acts that cause another person to have a reasonable apprehension for his or her safety. Such acts include, but are not limited to:

- Using, threatening to use, or displaying a weapon of any kind, or any other object that could be used for the purpose of injury or intimidation, unless required by official job duties (such as a police officer) and;
- Recklessly handling a weapon in a manner that could endanger the life, safety, or property of another.

Reporting and Investigating Procedures

Any employee who has been threatened, is a victim of a violent act, witnesses threats or violent acts, or learns of threats or violent acts, shall report such activity to his/her supervisor as identified above. In the event that violence is imminent, the employee shall call 911 immediately. An employee may also report an incident by calling Human Resources. Supervisors, in coordination with the police, and Human Resources, as needed, shall promptly evaluate and investigate each report.

Confidentiality

Information about an incident of workplace violence will be shared only with those supervisors or managers with a legitimate need to know.

3.13 DRESS CODE

The City of Staunton strives to maintain a workplace environment that is safe, well-functioning, and free from unnecessary distractions and annoyances. As part of that effort, the City requires employees to maintain a neat and clean appearance that is appropriate for the workplace setting and for the work being performed. To that end, department directors/supervisors may determine and enforce guidelines for workplace-appropriate attire, grooming and hygiene standards for their areas. Such guidelines may limit the use of natural or artificial scents that could be distracting, offensive or harmful to others.

All City of Staunton employees are expected to present a professional image to clients, visitors, customers and the public. Acceptable personal appearance, like proper maintenance of work areas, is an ongoing requirement of employment with the City. A director/supervisor should communicate any department-specific workplace attire and grooming expectations to each employee during new-hire orientation or evaluation periods, or at any other time a director/supervisor deems appropriate. Any questions about the department's expectations for attire should be discussed by an employee with the employee's immediate supervisor. Any employee who does not meet the attire or grooming expectations established by the employee's department may be asked to leave the workplace to change attire or grooming as necessary and may be subject to disciplinary action.

Examples of unacceptable attire includes the following:

Clothing with slogans, profanity or profane images, or suggestive images or text; or promoting, by use of logos or otherwise, businesses from which the City has procured or is considering the procurement of goods or services.

Hourly paid employees will not be compensated for any work time missed because of failure to meet the attire and grooming expectations.

Violations of the policy can range from inappropriate clothing items (as referenced above) to offensive perfumes and body odor. If a staff member comes to work in inappropriate dress, he or she may be required to go home, change into conforming attire or properly groom, and return to work. If a staff member's poor hygiene or use of too much perfume/cologne is an issue, the supervisor should discuss the problems with the staff member in private and should point out the specific areas to be corrected. If the problem persists, supervisors should follow the normal corrective action process.

Reasonable accommodation of variations from this policy will be made to the extent required by applicable law. Those requesting such an accommodation should be referred to the Human Resources Department.

3.14 SMOKE AND VAPE-FREE WORKPLACE

Purpose

The City of Staunton is committed to providing a safe and healthy workplace and to promoting the health and well-being of its employees. As such, the following policy has been adopted and applies to all employees and contractors of the City of Staunton.

Policy

It is the policy of the City of Staunton to prohibit smoking and vaping in all City of Staunton facilities to provide a safe and healthy work environment for all employees. Smoking is defined as the "act of lighting, smoking or carrying a lighted or smoldering cigar, cigarette or pipe of any kind." Vaping refers to the use of any personal vaporizing device designed to heat any solution to its vaporization point such as e-cigarettes, e-pipes, e-hookahs and e-cigars.

Scope

This policy applies to:

- All areas of buildings occupied by City of Staunton employees.
- All vehicles owned or leased by the City of Staunton.
- All City of Staunton employees (full-time, part-time, seasonal.)
- All contractors and consultants and/or their employees working in City of Staunton facilities.
- All interns.
- All volunteers.

Procedures

Employees who violate this policy will be subject to disciplinary action up to and including immediate discharge .

A process is in place for resolving complaints about the smoke- and vape-free policy:

- Complaints about the application of this policy should be brought to the attention of the Human Resources Department or the employee's director/supervisor for resolution.
- The complaint should be submitted in writing and should identify specific objections.
- The City of Staunton will investigate the complaint and resolve it in accordance with the policy.

No employee shall suffer any form of retaliation for raising a complaint or asking a question about this policy.

3.15 FREEDOM OF INFORMATION ACT (FOIA)

City employees should have an 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):

- written records of City Council meetings;
- city contracts, ordinances, and resolutions;
- financial documents such as the budget, Capital Improvement Program, copies of invoices, revenues, and expenditures;
- names, dates of employment, and the salaries of public officials over \$10,000;
- reports, memoranda, letters, and e-mails which do not address a personnel claim or litigation;
- records of any formal City Council action; and
- completed project files.

Any request for public records, whether written or verbal, should be considered a FOIA request. A requestor need not mention or identify the Freedom of Information Act in order to invoke the requirements of the Act. When in doubt as to whether a request involves FOIA, an employee should inquire through their chain of command to the City's designated FOIA Officer who may thereafter consult with the Office of the City Attorney.

Requests for records received by City staff should immediately be forwarded to the City's designated FOIA Officer, for review. In responding to any request for records, 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 records 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.

Any employee who fails to comply with this policy may face disciplinary action up to and including termination.

3.16 MEDIA RELATIONS

Purpose

The City of Staunton strives to keep its residents, businesses and visitors informed by maintaining a proactive communications program. This type of strategic approach to media relations helps to build a beneficial and trusting relationship with news media in order to foster accurate and fair reporting, increase positive news coverage, and protect and enhance the city's reputation and integrity. This policy is intended to provide general guidelines and principles to ensure accurate and timely dissemination of

information, thereby reducing the likelihood of inaccurate, conflicting or unauthorized information from being released. This policy will also outline who can interact with the media in an official capacity on behalf of the city.

The Engagement and Communications Manager leads the organization's media relations activities; however, all city departments have a role to play in building professional and cooperative relationships and to ensure media inquiries are responded to in a timely manner that is accurate and clear and by the most appropriate city spokesperson.

Policy Statement

It is the policy of the city to foster and encourage an atmosphere of openness in working with the media. Inquiries from the news media are given high priority and should be responded to quickly and truthfully. Every effort should be made to meet the media's deadlines and to ensure the accuracy of the information provided. When contacted by the Engagement and Communications Manager for information needed to respond to a media inquiry, all department directors shall immediately provide the most accurate and complete information available for the response.

The Engagement and Communications Manager is responsible for the city's media inquiries, interview requests, and other media issues. They will operate as an objective conveyor of facts. Any media inquiries received by city staff will be referred immediately to their department director who, in turn, will forward the contact to the Engagement and Communications Manager. Department directors, or a designee, may handle requests from the media that are within their purview and area of expertise.

The Engagement and Communications Manager does not handle public records requests. These requests should be made through the City's designated FOIA Officer.

The responsibility for assuring complete compliance with the provisions of this Media Relations Policy rests with the department directors, supervisors and the individual employee involved.

City Spokespersons

All official city communications shall be from the City of Staunton's Engagement and Communications Manager or from a list of Designated Communications Specialists maintained by the Engagement and Communications Manager and approved by the City Manager.

The Designated Specialists List includes:

- City Manager
- Assistant City Manager
- City Attorney
- Department and Assistant Department Directors and their designees
- Police Department Public Information Officer and designated staff
- Fire Marshal and designated staff

Responding to Media Inquiries

Because the media often work on rigid deadlines, it is important that all departments respond as quickly as possible to inquiries from the media. Inquiries should be acknowledged as soon as possible and answered once the requested information becomes available. Department directors or designated

department spokespersons should promptly notify the Engagement and Communications Manager of any media inquiries and interview requests.

All media inquiries regarding known or potentially contentious issues must be referred to the Engagement and Communications Manager and appropriate department director. In collaboration with the director, City Manager and others as needed, the Engagement and Communications Manager will coordinate a plan and/or response on behalf of the city.

Public Safety Inquiries

The Police and Fire and Rescue Departments have designated spokespersons who follow a specific set of guidelines when releasing information to the public. Any media calls to other city staff regarding a public safety issue should be referred to the Police or Fire and Rescue Department, as appropriate. All information released to the media as a “media release” by the Police and Fire and Rescue Departments should be shared with the Engagement and Communications Manager and the City Manager’s Office. These offices should be notified at the time of major incidents.

Litigation and Personnel Inquiries

Generally, the business conducted by the City of Staunton is public, and, therefore records related to such business are subject to disclosure through the Freedom of Information Act (FOIA). However, FOIA exempts some records from public disclosure. Media inquiries regarding pending litigation or exposure to litigation should be referred to the City Attorney’s Office and the Engagement and Communications Manager. Questions regarding personnel matters should be referred to the Human Resources Department along with the Engagement and Communications Manager.

City-Initiated Information to the Media

All information provided to the media, including but not limited to news releases, media alerts or advisories and public service announcements, will be disseminated by the Engagement and Communications Manager or designee and their respective department director. The Engagement and Communications Manager will provide news release and media alert templates for each department to use, to ensure consistency in the city’s communication methods.

City Council Reports: Unless otherwise required by applicable law, reports prepared by city staff for submission to City Council will not be shared with the media or the general public until they have been delivered to City Council and authorization has been provided by the City Manager’s Office.

Personal Viewpoints

All employees have the right to voice their personal points of view; however, some individual viewpoints may conflict with the city’s position on any given matter. Accordingly, city employees stating a personal perspective in a letter to the editor, radio or television interview, social media channel, public meeting or through any other public channel may not associate the city with their position.

If an employee chooses to identify themselves as a city employee in a media interview, letter or statement, they must state that their views do not necessarily represent the views of the City of Staunton and that they are not speaking on behalf of the city. A similar disclaimer must be given by an employee if they choose to voice their personal point of view at a public meeting.

Furthermore, written communication stating a personal point of view regarding a topic or issue involving the City of Staunton must be shared through private communication tools. Neither city stationery, city email nor any other proprietary materials may be used.

3.17 SOCIAL MEDIA

Purpose

The city encourages engagement with the public via social media platforms to:

- further the goals of the city and the missions of its departments;
- strengthen the city's responsiveness to its community members and;
- provide opportunities for community members to have direct interactions and dialogue with city employees about topics that matter to them.

This policy establishes guidelines for the use and management of social media forums and applies, but is not limited to all individuals, constituents, departments, or groups who create, post, moderate or maintain social media on behalf of the City of Staunton.

This policy and its guidelines will evolve as new technologies and social networking platforms emerge. Violation of this policy may result in the removal of department pages from social media outlets. The Engagement and Communications Manager retains the authority to remove information or provide corrections or clarifications for any of the city's social media properties.

Defining Social Media

“Social media” is defined as digital communications platforms that integrate user-generated content and user participation. This includes, but is not limited to, social networking sites, microblogging sites, photo and video sharing sites, wikis, blogs, and news sites. Some examples of social media include: Reddit, X (formerly known as Twitter), Tik Tok, Facebook, Instagram, and YouTube.

Creating and Managing Social Media Sites

- All official city presences on social media sites are considered an extension of the city's information network and are governed by the [Media Relations](#) policy.
- All requests for new, city affiliated social media sites must be coordinated with and approved by the Engagement and Communications Manager.
- All official City of Staunton Communications to residents shall be from the Engagement and Communications Manager or someone from a list of Designated Communications Specialists maintained by the Engagement and Communications Manager, approved by the City Manager.
- Each department utilizing social media platforms must designate a content manager who is responsible for all content and upkeep of the department's social media.
 - The content manager is responsible for working with the Engagement and Communications Manager to keep current with best practices.
 - The content managers must conduct themselves at all times as representatives of the city. Employees who fail to conduct themselves in an appropriate manner can be subject to disciplinary action.

- The content manager establishes, publishes, manages and updates content in accordance with the Social Media Policy and city guidelines, policies and procedures.
- The content manager is responsible for regularly reviewing all comments on social media sites for their department. Comments that do not adhere to the city's comment policy (stated below) should be immediately removed.
- Content managers are prohibited from:
 - disclosing confidential information or information that could breach the security of the city's computer system in any way
 - posting any material that would constitute harassment, hate speech, or libel
 - promoting exclusively personal social media pages via city communication channels, such as use of a city email signature or city- owned social media accounts to promote a personal page
- With the exception of police and fire social media, the content manager is responsible for providing administrative access to the account to the Engagement and Communications Manager.
- Police will adhere to general order 1-23: Social Media in the police department's Policy and Procedure manual.
- All city social media sites must display or link to the city's comment policy (listed below).
- Each social media site must include a statement that it is an "official City of Staunton site" and provide a link to the corresponding City of Staunton website.

Public Posting Guidelines

The City of Staunton welcomes and encourages dialogue with the community, but please be aware that this is a moderated online discussion site. All social media accounts operated and maintained by the City of Staunton shall carry the following disclaimer in a prominent position on the social media page (italicized):

This social media page is not a public forum. It is a designated, limited public forum maintained by the City of Staunton. Comments are welcome as they provide engagement between residents and the City of Staunton. However, comments made on this site will be monitored and will be deleted if the comments are solicitations for business, spam with links to external websites, pornographic images, vulgar language, or comments that target any ethnic, racial, gender, sexual orientation, disability status, or religious belief. Additionally, any comment that infringes on copyrights or trademarks will be deleted.

The city reserves the right to deny access to City of Staunton social media sites for any individual, who violates the City of Staunton's Social Media Comment Policy, at any time and without prior notice.

A comment posted by a member of the public on any City of Staunton social media site is the opinion of the commentator or poster only, and publication of a comment does not imply endorsement of, or agreement by, the City of Staunton, nor do such comments necessarily reflect the opinions or policies of the City of Staunton.

All content posted on this page is subject to public disclosure.

Employee Guidelines for Personal Social Media Use

Personal social media accounts should remain personal in nature and be used to share personal opinions or non-work-related information. Following this principle helps ensure a distinction between sharing personal and city views.

Any online behavior that could fall under the definitions of unacceptable conduct in §3.3 of the Personnel Policy Manual may be subject to disciplinary action.

The following guidance is for city employees who have personal social media or who decide to comment on posts about official city business:

- City employees must never use their agency email account or password in conjunction with a social media site.
- State your name and, if relevant, role, when discussing city business.
- Creating an individual social media account for the purposes of promoting a city department is permissible if the individual identifies themselves as a city employee and ensures their profile and all content is of a professional rather than personal nature.
- Employees are prohibited from:
 - Disclosing confidential information or information that could breach the security of the city's computer system in any way;
 - Using the city seal, logo, patches, trademarks, etc. without written consent;

Violation of these guidelines may result in disciplinary action. The city reserves the right to require immediate removal of material that is inappropriate, disruptive to the workplace or impairs the mission of the city.

Records Retention

Social media sites are subject to the Virginia Public Records Act. Any content produced or maintained on a city social media site, including communication posted by the city and communication received from citizens, is a public record.

Departments that use social media are responsible for complying with applicable federal, state, and city laws, regulations, and policies. This includes adherence to established laws and policies regarding copyright, and records retention, the Freedom of Information Act (FOIA), the First Amendment, privacy laws and information security policies established by the city. The department maintaining a site shall preserve records pursuant to the relevant records retention schedule in a format that preserves the integrity of the original record and is easily producible. Furthermore, retention of social media records shall fulfill the following requirements:

- Social media records are captured in a continuous, automated fashion throughout the day to minimize a potential loss of data due to deletion and/or changes on the social networking site.
- Social media records are maintained in an authentic format (i.e. ideally the native technical format provided by the social network, such as XML or JSON) along with complete metadata.
- Social media records are archived in a system that preserves the context of communications, including conversation threads and rich media, to ensure completeness and availability of relevant information when records are accessed.
- Social media records are indexed based on specific criteria such as date, content type, and keywords to ensure that records can be quickly located and produced in an appropriate format for distribution (e.g. PDF).

- Each employee who administers one or more social networking sites on behalf of the Agency has self-service, read-only access to search and produce relevant social media records to fulfill public information and legal discovery requests as needed.

The city utilizes an automated archiving solution to comply with applicable public records law and fulfill the above record retention requirements.

3.18 TELECOMMUTING

The City considers telecommuting to be a viable alternative work arrangement in cases where individual, job and supervisory characteristics are best suited to such an arrangement. Telecommuting allows an employee to work at home, on the road, or in a satellite location for a portion of their regular working hours. Telecommuting is a voluntary work alternative that may be appropriate for some employees and some jobs. It is not an entitlement; it is not an entity-wide benefit; telecommuting arrangements can be discontinued by either party; and it in no way changes the terms and conditions of employment with the City.

- A. Telecommuting can be informal, such as working from home for a short-term project or on the road during business travel, or formal, as will be described below. Other informal, short-term arrangements may be made for employees on family or medical leave, to the extent practical for the employee and the City, and with the consent of the employee's health care provider, if appropriate. All informal telecommuting arrangements are made on a case-by-case basis, focusing on the business needs of the entity first. Such informal arrangements are not the focus of this policy. However, informal telecommuting must be approved by the employee's direct supervisor.
- B. Individuals requesting formal telecommuting arrangements must have been employed with City for a minimum of 12 months of continuous, regular employment and must have exhibited above average performance, in accordance with the City's performance appraisal process.
- C. Any telecommuting arrangement made will be on a trial basis for the first three months, and may be discontinued, at will, at any time at the request of either the telecommuter or the City.
- D. The City, through its Information Technology and Human Resources Departments, will determine, with information supplied by the employee and the Department Director or designee, the appropriate equipment needs (including hardware, software, modems, phone and data lines, facsimile equipment or software, photocopiers, etc.) for each telecommuting arrangement on a case-by-case basis. Equipment supplied by the City will be maintained by the City. Equipment supplied by the employee, if deemed appropriate by the City, will be maintained by the employee. The City accepts no responsibility for damage or repairs to employee-owned equipment. The City reserves the right to make determinations as to appropriate equipment, subject to change at any time. Equipment supplied by the City is to be used for business purposes only. The telecommuter will be required to sign an inventory of all property and pursuant to which the telecommuter agrees to take appropriate action to protect the items from damage or theft. Upon termination of employment, all City property will be returned to the City, unless other arrangements have been made.
- E. Consistent with the City's expectations of information asset security for employees working at the office full-time, telecommuting employees will be expected to ensure the protection of proprietary City and customer information accessible from their home office. Steps include, but are not limited to, use of locked file cabinets and desks, regular password maintenance, and any other steps appropriate for the job and the environment.

- F. The employee will establish an appropriate work environment within their home for work purposes. The City will not be responsible for costs associated with initial setup of the employee's home office such as remodeling, furniture or lighting, nor for repairs or modifications to the home office space. Employees will be offered appropriate assistance in setting up a work station designed for safe, comfortable work.
- G. The City reserves the right to visit the employee's home work site to inspect for possible work hazards and suggest modifications for the purposes of telecommuting. Repeat inspections will occur on an as-needed basis. Injuries sustained by the employee while at their home work location and in conjunction with their regular work duties are normally covered by the City's workers' compensation policy. Telecommuting employees are responsible for notifying the employer of such injuries in accordance with City's workers' compensation policies and procedures. The employee is liable for any injuries sustained by visitors to their work site.
- H. The City will supply the employee with appropriate office supplies (pens, paper, etc.) for successful completion of job responsibilities.
- I. The employee and supervisor will agree on the number of days of telecommuting allowed each week, the work schedule the employee will maintain, and the manner and frequency of communication. The employee agrees to be accessible by telephone and within a reasonable time period during the agreed upon work schedule.
- J. Telecommuting employees who are not exempt from the overtime requirements of the Fair Labor Standards Act (FLSA) will be required to record all hours worked in a manner designated by the City. Telecommuting employees will be held to a higher standard of compliance than office-based employees due to the nature of the work arrangement. Hours worked in excess of those specified per day and per work week, in accordance with state and federal requirements, will require the advance approval of the supervisor. Failure to comply with this requirement may result in the immediate cessation of the telecommuting agreement.
- K. Before entering into any telecommuting agreement, the employee and supervisor, with the assistance of the Human Resources Department, will evaluate the suitability of such an arrangement paying particular attention to the following areas:
- Employee Suitability - the employee and supervisor will assess the needs and work habits of the employee, compared to traits customarily recognized as appropriate for successful telecommuters.
 - Job Responsibilities - the employee and supervisor will discuss the job responsibilities and determine if the job is appropriate for a telecommuting arrangement.
 - Equipment needs, work space design considerations and scheduling issues.
 - Tax and other legal implications for the business use of the employee's home based on IRS and state and local government restrictions. Responsibility for fulfilling all obligations in this area rests solely with the employee.
- L. If the employee and supervisor agree, and the Human Resources Department concurs, a draft telecommuting agreement will be prepared and signed by all parties and a three-month trial period will commence.
- M. Evaluation of telecommuter performance during the trial period will include daily interaction by telephone and e-mail between the employee and the supervisor, and weekly face-to-face meetings to discuss work progress and problems. At the conclusion of the trial period, the employee and supervisor will each complete an evaluation of the arrangement and make recommendations for continuance or modifications. Evaluation of telecommuter performance beyond the trial period will be consistent with that received by employees working at the office in both content and frequency but will focus on work output and completion of objectives rather than time-based performance.

- N. An appropriate level of communication between the telecommuter and supervisor will be agreed to as part of the discussion process and will be more formal during the trial period. After conclusion of the trial period, the supervisor and telecommuter will communicate at a level consistent with employees working at the office or in a manner and with a frequency that seems appropriate for the job and the individuals involved.
- O. Telecommuting is NOT designed to be a long-term replacement for appropriate child or adult care unless determined otherwise by the director. Although an individual employee's schedule may be modified to accommodate child care needs, the focus of the arrangement must remain on job performance and meeting business demands. Prospective telecommuters are encouraged to discuss expectations of telecommuting with family members prior to entering into a trial period and appropriate child or adult care arrangements should be made while the employee is telecommuting.
- P. Employees entering into a telecommuting agreement may be required to forfeit use of a personal office or workstation in favor of a shared arrangement to maximize City office space needs.
- Q. In certain limited circumstances, the City may contract with an office space provider to meet the needs of employees who wish to telecommute but who do not have appropriate home office space, or for groups of employees whose proximity to the entity and to each other makes such an arrangement feasible.
- R. The availability of telecommuting as a flexible work arrangement for employees of the City can be discontinued at any time at the discretion of the employer. Every effort will be made to provide 30 days notice of such a change to accommodate commuting, child and/or adult care, and other problems that may arise from such a change. There may be instances, however, where no notice is possible.

4.1 ADMINISTRATION

The salaries and wages of all employee positions shall be established and approved by the City Council. All positions and salary ranges are identified in the salary and classification schedule. Any adjustments during the course of the fiscal year may be made by the City Manager or designee.

All employees shall be paid for work performed for the City in accordance with the administrative regulations of the City's Classification and Pay Plan and the provisions of the Fair Labor Standards Act.

4.2 FULL-TIME EMPLOYMENT

Full-time employees are employees who provide full-time service delivery need. Full-time employees work a continuing schedule as it applies to their department's regular work hours, normally 2080 hours on an annual basis. However, full-time public safety employees may have a different quantum of hours on an annual basis in compliance with the Fair Labor Standards Act and Virginia Code Section 9.1-700, et seq. Full-time employees are eligible to receive City benefits.

New full-time employees are generally hired at the minimum salary rate established for the position. The Department Director may recommend a higher starting rate based on the applicant's experience, skill level or competitive adjustments in the marketplace. Any advanced starting salary shall be reviewed by the Chief Human Resources Officer and approved by the City Manager prior to discussion with the applicant.

If it becomes necessary, due to a lack of candidates, to appoint a candidate who does not meet the minimum qualifications of a position, the new appointee shall start at the minimum rate of the

classification, provided the appointee meets the position criteria within one year from appointment. No individual who does not meet the minimum qualifications of a position may be hired unless reviewed by the Chief Human Resources Officer and approved by the City Manager prior to hiring the candidate.

4.3 PART-TIME EMPLOYMENT

The City of Staunton employs individuals on a part-time basis to 1) supplement the workforce during seasonal or temporary workloads, 2) to provide interim replacements, and 3) for jobs that do not require full-time employees.

Departments may employ individuals on a part-time basis provided the funds are available in their budget to support the need in the department.

Classification and Compensation of part-time positions

- A. Part-time employees will be classified according to their assigned position duties. This classification will determine the pay band and zone for pay purposes.
- B. The Chief Human Resources Officer , in consultation with the Department Director, will determine the pay rate for the individual hired. The rate of pay must be within the pay band assigned to the position duties.
- C. Pay rates for new staff will normally be at the beginning of the pay band and zone; however, other factors may be considered in establishing the rate of pay for the individual. Factors include the individual's training and experience, budget allocation, equity of pay with others in the department and marketplace, and business need.

Terms of Employment:

- A. Part-time employees may not exceed 1170 work hours during a fiscal year. Any exceptions must be pre-approved by the Chief Human Resources Officer and the City Manager.
- B. The department is responsible for ensuring the hours of work do not exceed time and budget limits.
- C. Part-time employees will be provided with specified benefits based on the number of hours worked in the previous fiscal year.
- D. The following chart provides the level of benefits for which part-time employees are eligible.

	Market adjustment**	Merit increase based on performance**	Holidays	Health and Retirement benefits	Flexible Spending, Fitness Center & Supplemental Retirement Plan
Temporary/Seasonal	Yes	No	Yes	No	No
Part-Time	Yes	Yes*	Yes- 4 hours per holiday	No	Yes/provided they work a continuous 12 months

Work Release/Inmate Labor	No	No	Yes	No	No
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- E. Employees who work seasonal jobs (those who do not work a continuous 12 months) will receive their increase when they return to employment at the beginning of the next season provided documentation indicates satisfactory performance.
- F. **Existence of market adjustments and merit increases is based on available funding and determined by City Council in the adoption of the City's annual budget.

For holiday benefits for part-time employees, please refer to Personnel Policy 5.3 Holidays and Holiday Pay.

4.4 MERIT INCREASE

All employees, excluding temporary, seasonal, and substitute are eligible for a merit increase subject to appropriation by the Staunton City Council. To receive a merit increase, an employee's performance during the preceding year must be judged by the supervisor and approved by the City Manager and/or Department Director to be satisfactory or better. Provided budgeted funds are available, the City Manager and/or Department Director may authorize an increase in pay at a flat rate or in a percentage range established by the City Manager.

4.5 EXTRA MERIT INCREASE

To recognize outstanding service rendered by an employee over a sustained period of time, one additional merit increase may be awarded. The award of such an extra merit increase shall not change an employee's anniversary date.

Any Department Director who proposes to award an extra merit increase shall submit written justification to the Chief Human Resources Officer. The Chief Human Resources Officer shall make a recommendation thereon to the City Manager, who will approve or disallow the action. Only factors which relate to the quality of work performed and to the demonstrated willingness of the employee to do more than is normally expected will be considered.

4.6 COST OF LIVING INCREASE

The cost-of-living index for this region shall be reviewed annually by the Chief Human Resources Officer. When it is found to have either significantly increased or decreased, appropriate recommendations shall be made to the City Manager for inclusion in the annual budget. Increases and/or adjustments shall become effective at a date set by City Council subject to appropriation by the Council. Employees who are on disciplinary action may not be eligible for cost-of-living pay increases or adjustments. If a department director determines that an employee should not receive a cost-of-living pay increase or adjustment, they must document the reasons for the denial and submit the documentation to the City Manager for approval.

4.7 SALARY ADJUSTMENTS

Temporary Work in Higher Capacity/Acting Pay

An employee who is assigned temporary work for at least a 30-day continuous period in a higher-level position shall be paid at a rate no less than five percent higher than his normal rate for the hours thus assigned or the minimum rate of the higher classification (but not less than five percent above their regular rate).

Pay on Demotion

When employees are demoted to a position in a lower pay range, they may be paid in the new position at a rate which gives credit for total service within the range established for the lower class, but at least 10 percent beneath their present rate of pay. Notwithstanding the preceding, the City Manager may establish exceptions relating to reductions in pay upon demotion.

Lateral Transfer

There shall be no required change in the salary rate of an employee who transfers from one position to another within the same pay range. Any exception must be approved by the City Manager.

Additional Duties as Assigned

At the discretion of the City Manager or designee, an employee who is assigned additional permanent duties to their current job assignment may have their salary adjusted at a minimum 2% but not greater than 5%.

Certification Pay

Employees may be eligible for compensation in addition to base pay under the specific provisions of a departmental certification plan. Certification pay is typically earned while the employee possesses a job-related license or certificate and performs work related to the license or certificate. Certification pay is normally removed upon loss of the certification or license. If a certification leads to a promotion (i.e. placed in a higher pay band), the employee will follow the policy set forth under Promotion.

Certification pay may vary by department and job class based on a pre-determined program. For police and fire, please see the current pay and classification system for further details.

Promotion

When an employee is promoted to a position in a higher grade, the rate of the promoted employee shall be adjusted a minimum of ten percent above his present rate of pay or to the minimum rate for the higher class, whichever is greater. For police and fire, please see the current pay and classification system for further details.

Re-employment

When an employee is reemployed within one year after termination in a grade in which they were previously employed, they may be paid a salary not more than ten percent above the minimum rate for the position which they occupied at termination. Payment above the minimum rate must be approved in advance by the City Manager. The employee's anniversary date shall be one year after the date of reemployment.

Competitive Salary Offers:

The City may elect to make a counter offer to an employee who has received a verified, higher salary offer for a position from another employer. The following conditions apply:

- Hiring managers have the discretion to request counteroffers; requests should be made based on business need and should be submitted to Human Resources for review and consideration; final approval must be authorized by the City Manager.
- Only one counteroffer shall be made per offer.

The counteroffer cannot exceed the current position's salary grade maximum.

4.8 OVERTIME, COMPENSATORY TIME, EMERGENCIES, & ON-CALL

General

A Department Director may authorize official overtime work when it is necessary in order to meet a City emergency or other operating requirements. Official overtime work is time worked in addition to the normal work schedule. Written approval of the Department Director shall be required. Unauthorized overtime can lead to disciplinary action.

Supervisors who fail to prevent employees from working unauthorized overtime may also be subject to discipline. The authorization and control of overtime work is the direct responsibility of the director or designee.

Overtime Pay

Whenever an employee who is not exempt from the provisions of the Fair Labor Standards Act is required to work more than 40 hours in any work week, the employee shall be paid one and one-half times the regular hourly rate for each productive hour actually worked in excess of 40 hours. Non-exempt members of the Fire and Rescue Department and non-exempt, sworn law enforcement officers of the Police Departments shall be paid one and one-half times the regular hourly rate for each productive hour worked in excess of the maximum hours established for their respective work periods. For non-exempt, sworn law enforcement officers in the Police Department, the work period is 14 days/84 hours. For non-exempt members of the Fire and Rescue Department, the work period is 19/144 hours. For purposes of payroll computation, overtime will be rounded off to the nearest 15-minute segment.

Compensatory Time

The Fair Labor Standards Act (FLSA) provides a public agency the option to provide compensatory time off in lieu of overtime pay. The City of Staunton has elected to exercise this option, in some departments, and offer full-time, non-exempt employees the choice of accepting compensatory time off in lieu of overtime pay based on the operational needs of the department with the following provisions:

- A. All overtime work must be authorized in advance by an employee's Department Director or designee.
- B. Compensatory time off for overtime hours worked shall be earned on the same basis and at the same rate that overtime pay is computed:

Compensatory time off shall be accrued at a rate of one and one-half hours for each overtime hour worked when those HOURS WORKED exceed the maximum number of productive hours established for the work period.

Use of compensatory time in a scheduled work period will be counted as non-productive time in the calculation of overtime hours.

- C. The City will "buy back" the balance of all accrued but unused compensatory time up to two times each year, in December and June, at the regular rate earned by the employee consistent with applicable law.
- D. Upon termination of employment, an employee who has accrued compensatory time shall be paid for the unused compensatory time at the final regular rate received by such employee.
- E. The City reserves the right to substitute overtime payment, in whole or in part, for compensatory time off in any work period. Such overtime payment will not affect subsequent granting of compensatory time off in future work periods.
- F. Employees shall be permitted the use of compensatory time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the City. Compensatory time must be used before general leave is used.
- G. A Department Director's or designee's approval of a request to use compensatory time will be determined by consideration of the normal schedule of work, anticipated peak workloads, emergency requirement for staff and services, and the availability of qualified, substitute personnel at no additional cost to the City. Requests will be denied if the approval of such would impose an unreasonable burden on the City's ability to provide services of acceptable quality or quantity for the public during the time requested without the use of the employee's services.
- H. The City reserves the right to discontinue this compensatory time program when such discontinuance would be in the best interests of the City. In the event of discontinuance, employees shall be given the option of utilizing the balance of accrued compensatory time or receiving cash payment for the balance of accrued compensatory time.
- I. Participation in the compensatory time program requires the department director or supervisor to designate no less than on an annual basis whether their department will offer one of the following:
 - Only compensatory time for hours worked over FLSA standards in a work-week or;
 - Only overtime pay for hours worked over FLSA standards in a work-week or;
 - Both compensatory time and overtime pay to department employees.

In order to reduce the number of bookkeeping and payroll hours required to implement this program, the department, not employee, may switch to/from compensatory time off to/from overtime payment at the designated interval only. Commencement of the 12-month interval will be governed by the work period schedule, but will generally begin with the first work period on or after July 1 of each year.

On-Call

The City Manager and Department Directors will define the departments and job titles eligible for on-call pay based on the operational needs of the City. An employee on call is responsible for being available during off-duty hours to return to work to perform emergency or other needed services. However, employees receiving on-call pay are not required to remain at their worksite and are free to engage in personal pursuits, with the understanding that they must be available by phone to respond and fit for duty if required to report to work if necessary. Each Department Director will be responsible for establishing specific protocols regarding on-call rotation schedules and responsibilities and will be responsible for communication of the procedures within the Department and to the impacted employees.

In recognition of being on-call, an employee will receive a flat amount, to be determined by management, to be paid to the employee that is on-call and paid in addition to any hours actually worked while on call.

Overtime compensation is applicable only when total productive work hours exceed the regular full-time work cycle and will be paid in accordance to the FLSA rules and regulations. Employees who are on call must make themselves available for contact and must be fit for duty. Employees who are on call must adhere to all City of Staunton policies, including substance abuse and testing. Any variances from such policies may result in disciplinary action up to and including termination. Any job titled that is classified as exempt (under Fair Labor Standards Act) will not be eligible to receive on-call pay. Generally, on-call status begins after the completion of the workday and continues until resuming work the following workday. On call pay cannot be earned when an employee is on any type of leave, including but not limited to general leave, major illness leave, bereavement leave, civil leave or military leave, personal holiday, or when the employee is otherwise not available to work.

Rest Periods

Rest periods of short duration, running from five minutes to about 20 minutes, are common, and may be granted by the employee's supervisor. They promote the efficiency of the employee and are customarily paid for as work time. They must be counted as hours worked. Because granting of a rest period is not required by law, the supervisor has the right to terminate in part or in whole rest periods if it is not operationally prudent for the department.

Meal Breaks

Under the Fair Labor Standards Act, bona fide meal breaks are not considered work time as long as:

- The employee is completely relieved from duty (uninterrupted). The employee is not relieved if he or she is required to perform any duties, active or inactive (subject to interruption).
- The break is long enough to allow the employee to use it for eating a meal. Thirty minutes is long enough to qualify as a bona fide meal break.
- The break occurs at a scheduled hour or within a specified period at a time of day suitable for a normal meal break.

Bona fide meal breaks do not include coffee breaks or time for snacks. These are rest periods. The employee must be completely relieved from duty for the purposes of eating regular meals.

The employee is not relieved if he or she is required to perform any duties, whether active or inactive, while eating. For example, an office employee who is required to eat at his/her desk or a maintenance worker who is required to remain in the shop is working while eating. It is not necessary that an employee be permitted to leave the premises if he or she is otherwise completely freed from duties during the meal period.

Use of Electronic Communication Devices

- Non-exempt employees shall not check for, read, send and/or respond to any work-related emails, texts or phone calls outside their normal work schedules unless specifically authorized based on their job duties or specifically directed by their supervisor. In this circumstance, they must be paid for hours worked.
- Non-exempt employees using electronic communication devices for work-related correspondence during unauthorized times may be subject to discipline. Unless operationally prudent, supervisors requiring non-exempt employees to use electronic communication devices for work-related correspondence outside their normal work schedules may also be subject to discipline.

If a supervisor knows or has reason to know that an employee is continuing to work, it is considered work time. This includes allowing employees to work at home (such as when a non-exempt employee takes work home on week-ends to get “caught up”). Employees who, with the knowledge or acquiescence of their supervisor, continue to work after their shift is over, albeit voluntarily, are engaged in compensable working time. The reason for the work is immaterial; as long as the employer “suffers or permits” employees to work on its behalf, proper compensation must be paid. When a supervisor learns of an employee working off the clock, they must address the issue with the employee. If the employee performs any off the clock work that is unauthorized, the employee is required to immediately report this to their supervisor.

Non-exempt employees must be compensated (at the federal minimum wage) for all hours worked during a workweek, even if the work is performed without authorization. A supervisor, however, may discipline an employee for violation of the city’s policy or for insubordination for working without authorization.

Employees cannot volunteer to perform their regular work duties off the clock and without compensation. Employees cannot waive the requirements of the FLSA.

Record Keeping Requirements

Under the Fair Labor and Standards Act, all non-professional, support staff are classified as non-exempt, and all work hours must be tracked.

- A. The City of Staunton uses an automated timekeeping system known as KRONOS. Non-exempt employees will be required to clock in and out each day to provide an accurate record of their time. KRONOS clocks are located in most city-owned facilities and other locations (excluding Blue Ridge Court Services). Employees are not permitted to clock in or commence work before their normal starting time or to sign out or continue work after their normal ending time without the prior approval of their supervisor.
- B. Employee time cards are to be checked and approved/signed off by the supervisor on a weekly basis. Authorized overtime also must be approved by the supervisor.
- C. Tracking Time (The “7-Minute Rule”) The Fair Labor Standards Act lets employers track workers’ hours just about any way they want, so long as the method accurately reflects the amount of time worked. The City of Staunton tracks work time in 15-minute increments, thus the cutoff point for rounding down is 7 full minutes. If an employee works at least 7 full minutes, but less than 8 minutes, KRONOS rounds the number down to the nearest 15 minutes. If the employee works at least 8 full minutes, KRONOS rounds up.
- D. Clocking in or out on behalf of another employee or falsifying of any time card is prohibited and may be grounds for disciplinary action including termination.

Emergency Service

The City Manager may declare a State of Emergency during unusual circumstances. Each City employee has a responsibility to perform whatever duties may be assigned to them in emergency situations. As part of this responsibility, service outside of normal working hours or in some capacity other than their normally assigned position may be required. In order to efficiently contact employees if they are needed for emergency services, each employee must provide the City with up-to-date contact information to include their home phone number, personal cell phone number, and personal email address.

4.9 EFFECTIVE DATE OF PERSONNEL ACTIONS

The effective date of any personnel action is the actual effective date of the action. Unless the action coincides with the beginning of a pay period, this may necessitate computing the salary for part of the pay period at one pay rate and part at another pay rate. Reasonable effort should be made to have personnel actions coincide with the beginning of a pay period.

4.10 ANNIVERSARY DATES

An employee's anniversary date for the purpose of merit awards and performance evaluations shall be either the date of employment or latest position change, whichever is applicable. An employee's hire date or full-time hire date are used for other applicable length of service purposes.

4.11 PAYROLL DEDUCTIONS

In preparing the payroll, the City is responsible for making proper deductions from each employee's pay. Federal, state, and Social Security income tax deductions and any other deduction required by law, such as garnishments, will be made. Other deductions may be made with the employee's consent and at their request.

4.12 PAY AND WORK PERIODS

Pay dates are every other Friday on a bi-weekly basis.

The standard work period runs from Sunday through Saturday, beginning and ending at midnight on Saturday. For non-exempt, sworn law enforcement officers in the Police Department, the work period is 14 days/84 hours. For non-exempt members of the Fire and Rescue Department, the work period is 19 days/144 hours.

4.13 PAY STATEMENTS

The Finance Department is responsible for proper distribution of payroll. Direct deposit forms are distributed no later than 4:00 pm on the Thursday preceding the payroll date. Paper paychecks, if required, are available on the morning of the Friday payday.

Any employee who believes there is a mistake or incorrect deduction in their pay statement must immediately notify the Finance Department. If the Finance Department determines that a mistake has been made, the employee will be reimbursed for underpayments or required to repay the City for overpayments, as appropriate to correct the consequences of the error.

4.14 DIRECT DEPOSIT

All employees shall participate in direct deposit. Employees are required to complete the necessary paperwork and provide verification of the account and routing numbers for the account to which their compensation will be deposited. Employees must notify the Departments of Human Resources and Finance prior to making changes that might affect the direct deposit transaction such as a change in financial institution.

5.1 GENERAL PROVISIONS OF PAID AND UNPAID LEAVE

- A. The purpose of this section is to furnish an overview of the current benefits and leaves of absence provided by the City. Its provisions are not intended to be conditions of employment and may be modified, revoked or changed consistent with applicable law. No representative or employee of the City has the authority to make any statement or guarantee that would convey a future obligation on the City to continue the benefits and leaves of absence listed below.
- B. In requesting leave and utilizing leave provisions, employees are expected to consider the needs of the City. Should emergencies arise and the requirements of the City demand it, leave may be suspended temporarily in order to meet these needs.
- C. All leave must be requested in a manner prescribed by the employee's Department Director. Leave taken without complying with proper request procedure may result in disciplinary action.
- D. Employees may not be placed on a leave status either with or without pay when it is known that they will not return to work. If an employee is on authorized leave when it becomes known that he will not return, such leave shall be discontinued.
- E. All full-time employees appointed by the City Manager are eligible for the leaves of absence provided in this section. As such, they are subject to the terms, conditions, and stipulated waiting periods as may be provided. Part-time, temporary, and seasonal employees are not eligible for paid leaves of absence and are therefore expressly excluded from the provisions of this section unless otherwise indicated herein or by federal or state law.

5.2 LEAVE

The purpose of the general leave and major illness leave benefit is to provide a comprehensive paid time off leave benefit program for full time employees which recognizes employees' diverse needs and enables employees to manage the accrual and use of leave time consistent with the business needs and interest of the City.

Definitions

Family and Medical Leave Act (FMLA): Federal law which provides eligible employees unpaid leave for family and/or medical reasons under certain circumstances.

Full Time Employee: An employee assigned to a position that is scheduled to work 2080 or more hours in a 12-month period.

General Leave: Paid time off leave accrued on a monthly basis to be used for illness, vacation, or general purposes.

Major illness leave: Leave transferred from the general leave account in accordance with policy on a yearly basis to be used only for extended illness of the employee or for qualifying medical events falling under the Family Medical Leave Act.

Qualified health care provider: Person who not only is licensed by the appropriate authority(ies) but also otherwise has the credentials and experience in the field or specialty to treat someone for the particular condition.

Accrual

- A. Leave will be accrued based on the earned length of service with the Virginia Retirement System as of the date for new and existing employees.
- B. For active, part-time employees who are promoted to a full-time position with the City, leave accrual will be based on the length of service with the City. For administrative purposes, leave accrual will be retroactive based on the employee's original hire date with the City of Staunton.
- C. A new employee will accrue hours for the month if working prior to the 16th of the month.
- D. An employee who terminates employment will accrue leave for the month of termination if the termination date is after the 15th of the month.
- E. The monthly accrual of leave will be added to the employee's leave balance on the 16th day of the month of accrual (i.e., hours will be accrued and added on August 16th for the month of August).
- F. An employee on leave without pay for more than 15 calendar days per month will not accrue leave for the month. A full-time employee on leave without pay for 20 or more hours per week for two or more weeks in the calendar month will not accrue leave for the month.
- G. An employee on shared leave for more than 15 calendar days per month will not accrue leave for the month.
- H. A former terminated employee who is re-employed by the City after one year of their termination date with the City will be considered a new employee from the date of re-employment.
- I. The following chart provides leave accrual rates for employees:

Years of Service: (See Accrual section above)	Monthly Accrual 2080 hr employee	Annual Accrual 2080 hr employee	Monthly Accrual 2766 hr (Fire Dept.) employee	Annual Accrual 2766 hr (Fire Dept.) employee
Less than 5 years	12 hours	144 hours/18 days	16.20 hours	194.4 hours
5 yrs but less than 10 yrs	14 hours	168 hours/21 days	18.90 hours	226.8 hours
10 yrs but less than 15 yrs	16 hours	192 hours/24 days	21.60 hours	259.2 hours
15 yrs but less than 20 yrs	18 hours	216 hours/27 days	24.30 hours	291.6 hours
20 yrs or more	20 hours	240 hours/30 days	27.00 hours	324 hours

General Leave Use

- A. General leave may be used for time off needed by the employee. General leave must be requested by the employee in advance absent exceptional circumstances.
- B. General leave may be denied by the supervisor and/or Department Director. This denial may be based, for example, on the needs of the department, the required staffing of the department or patterns and/or mismanagement or abuse of the leave program by the employee.
- C. In case of emergency situations or other circumstances where an advanced request has not been made and approved, an employee shall notify the immediate supervisor or other appropriate staff member as soon as possible. Supervisors or Department Directors may require an employee to furnish a satisfactory certificate issued by qualified health care provider or other satisfactory evidence of illness, injury, medical condition, medical/dental appointments or other critical situation to certify the reason for absence.

- D. Time off for illness which exceeds a period of 24 consecutive hours of work time may require the employee to submit completed FMLA forms to meet federal regulations. Refusal to provide the requested paperwork in a timely manner may result in denial of the requested leave.
- E. An employee is encouraged to schedule and use 50% of such annual accrual hours during the fiscal year of July 1 - June 30. If an employee does not use 50% of their annual accrual, unused hours in excess of 50% will be transferred to a major illness account on July 1.
 - An employee will not have any general leave rolled into their major illness account until having been employed for one full fiscal year. Scheduled usage of accrual does not apply to new employees during the first fiscal year of employment.
- F. An employee may not exceed a balance of 480 hours (Fire and Rescue Department shift personnel 640) in the general leave account as of June 30. Hours exceeding these maximums in the general leave account on July 1 will be transferred to the employee's "major illness account."

Payment of Accrued but Unused General

A voluntary terminating, retiring or death-in-service employee shall receive payment at their hourly rate of pay at termination for the total hours in the general leave account not to exceed the cap of 480 hours (640 for Fire and Rescue shift personnel). Employees who are terminated due to resignation or retirement, and do **not** provide at least a two (2) calendar week notice, shall forfeit payment of any unused general leave. For the purposes of this policy, employees who are terminated involuntarily or separate employment through job abandonment also forfeit payment of any unused general leave at the discretion of the City Manager as provided for in Policy 2.18.

All exempt employees with payment for 45 or more accumulated days in their combined, general leave and/or major illness account are required to receive their payment as a pre-tax deferred payment directly into a 401(a) account.

Major Illness Leave

The major illness leave account benefits the employee who experiences a serious illness, injury or incapacitation and/or for employees whose covered family members qualify for medical events falling under the Family Medical Leave Act.

- A. Major illness leave time is accrued from general leave when the employee has used less than 50% of the accrual during the fiscal year or exceeds the general leave accrued cap at the end of the fiscal year.
- B. A maximum of 2,080 hours (Fire and Rescue Department 2,766 hours) may be accrued in the major illness account.
- C. Once transferred, the hours may not be reclaimed for general leave.
- D. A medical certification and/or FMLA certification will be required for use of major illness leave.
- E. Major illness leave may be used for medical leave requiring absences in excess of a period of 24 consecutive scheduled work hours.
- F. When a qualified health care provider has certified the need for medical leave in excess of 24 consecutive work hours, major illness leave may be accessed immediately.
- G. Major illness or injury leave is for use when the employee is ill, injured or incapacitated, or when the employee's qualifying family member meets FMLA medical requirements.

Major Illness Absence of Full Days

The following criteria must be met to be eligible to use major illness leave for full days:

1. The employee or qualified family member, must have met the 24 consecutive work hours for illness, injury or incapacitation before being eligible for major illness leave.
2. The employee will be required to provide a qualified health care provider's certification which satisfactorily documents the employee is unable to work.
3. If a qualified health care provider certifies at the beginning of the illness, injury or incapacitation or qualifying family member, the need for more than 24 consecutive work hours of leave, the department may code payroll as major illness on the first 24 hours of absence. Human Resources must receive a copy of the certification satisfactorily documenting the leave will be in excess of 24 consecutive work hours.

Major Illness Absence of Partial and/or Intermittent Days

The City will allow employees to utilize major illness leave for partial days of leave needed to fully recuperate from an employee's or qualifying family member's FMLA major illness, injury or incapacitation.

The following criteria must be met to be eligible to use major illness leave for partial and/or intermittent days:

1. The employee must have met the 24 consecutive work hours for the employee's illness, injury or incapacitation or their qualifying family member's illness, injury or incapacitation before being eligible for major illness leave.
2. The employee must request and provide a qualified health care provider's certification and/or FMLA forms that satisfactorily document the employee is only allowed to work partial days or requires medical treatment on an intermittent basis.
3. The partial and/or intermittent leave must be directly related to the employee's original illness, injury or incapacitation or their qualifying family member's original illness, injury or incapacitation immediately preceding the use of major illness.
4. Exempt employees who request and have approved partial or intermittent leave from work due to the employee's illness, injury or incapacitation or their qualifying family member's original illness, injury or incapacitation and meet the foregoing criteria must code the partial days as FMLA leave. Intermittent leave of full days must be coded to FMLA-major illness leave or other accrued leave to cover for the exempt employee's injury, illness or incapacitation or their qualifying family member's original illness, injury or incapacitation
5. The use of major illness leave does not relieve an employee from complying with the provisions of the FMLA.

Payment of accrued but unused Major Illness leave at Retirement or death-in-service

Policy does not permit the payment of major illness leave to employees ending employment by voluntary resignation or involuntary termination. Policy only allows payment of major illness leave as defined below.

- A. Policy allows major illness leave payment to a retiree when the retirement meets the following criteria:
 - i. Must have been employed in a full-time Virginia Retirement System (VRS) position for a minimum of ten (10) years; and
 - ii. Must have been employed with the City of Staunton in a full-time VRS position for all of the five (5) years immediately preceding retirement or death; and meets VRS requirements for retirement.

- B. In the event of an employee's death-in-service payment of the major illness account accruals will be paid to the administrator of the employee's estate. If there is no estate or estate administrator payment of major illness accrual balances shall be withheld for 60-days and, with proper documentation, be paid to the surviving spouse; or, if no surviving spouse, to the net-of-kin in accordance with the provisions of Section 64.1-123 of the Code of Virginia.
- C. An eligible employee per this policy, will be paid for accrued but unused major illness leave balance as follows:
 - i. VRS Plan 1 and VRS Plan 2 retirees are eligible for payment of 25% of all accrued and unused major illness hours, paid at the current hourly rate of pay at the date of retirement. The total amount paid shall not exceed \$10,000.
 - ii. VRS Hybrid retirees are eligible for payment of 25% of accrued and unused major illness hours, paid at the current hourly rate of pay at the date of retirement. not to exceed 90 days. For this payment purpose, a day is defined in hours equal to the employee's regular schedule (8-hours, 10-hours, 12-hours). The total amount paid shall not exceed \$10,000.
 - iii. If a VRS Plan 1, 2 or Hybrid employee has been in a full-time Virginia Retirement System (VRS) position for a minimum of ten (10) years and meets the retirement requirements of VRS, including service or disability retirement but does not meet the five (5) years of consecutive City of Staunton service requirement, as defined in Section A, Part 2 above, the VRS Plan 1 or Plan 2 employee is eligible for payment of all accrued and unused major illness days, at a rate of \$20.00 per day. VRS Hybrid employee is eligible for reimbursement for all accrued and unused major illness days, not to exceed 90 days, at a rate of \$20.00 per day. For this payment purpose for both VRS Plan 1, 2 or Hybrid employee, a day is defined in hours equal to the employee's regular schedule (8-hours, 10-hours, 12-hours, 24-hours).

All exempt employees with payment for 45 or more accumulated days in their combined, general leave and/or major illness accounts separate and/or combined are required to receive their payment as a pre-tax deferred payment, up to the IRS limits, directly into a 401(a) account.

Reference:

Staunton City Charter, Section 11, First.
Virginia Code §§ 15.2-1131
Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654

5.3 HOLIDAYS AND HOLIDAY PAY

Holiday leave is designed to allow qualifying employees the opportunity to observe specific workdays as holidays as provided by City Council.

Definitions

Active Work Status - Active work status for a part time, seasonal or inmate release employee requires the employee to be in an active status in the payroll system and have worked a regularly scheduled full shift during the work week in which the holiday is scheduled.

Holidays - Days designated by City Council as official days of recognition for Staunton City employees.

Holiday Pay – The employee's regular hourly rate of pay.

Part time employee - Individuals who work less than 30 hours per week on a year-round basis or work on a temporary, short-term basis or assignment. Individuals who are paid on a per diem basis are not eligible for holiday pay. Appointed individuals who do not work on a full-time basis, Constitutional Officers and their staff members (unless otherwise provided in a memorandum of agreement between a constitutional officer and the City), and City Council members are not considered part time employees for purposes of holiday accrual.

Productive Time - Actual time spent in the performance of the assigned job duties.

Provisions

- A. The following days are recognized as paid holidays for employees:

New Year's Day	January 1
Martin Luther King, Jr. Day	Third Monday in January
Presidents' Day	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth Day	Third Monday in June
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Day after Thanksgiving	Day after the Fourth Thursday in November
Christmas	December 25
2 Personal Holidays	Discretionary

- B. Other holidays may be designated for observance by City Council.
C. An employee must be on payroll on July 1 to receive the Personal Holiday during the fiscal year.
D. Part time employees are eligible for the 13 holidays approved by City Council at the rate of four hours for each holiday given.

Holiday Scheduling

- A. When a holiday falls on a Sunday, it shall be observed on the following Monday. A holiday that falls on Saturday shall be observed on the preceding Friday.
B. Holidays may not be taken before they are earned except for Memorial Day and Juneteenth Day as noted in subsection D below.
C. The intent of holiday leave is to take off the day designated as the holiday. In a department requiring holiday scheduling, an alternative holiday must be scheduled within 90 days after the actual holiday.
D. Given Memorial Day and Juneteenth Day are less than 90 days from the end of the fiscal year, full time staff who are scheduled to work Memorial Day and/or Juneteenth Day may be scheduled for an alternate holiday between April 1 and June 30. If a special circumstance arises and the employee is not able to schedule an alternative holiday between April 1 and June 30 due to the operational needs of the department, with recommendation from the supervisor and approval by the City Manager/designee, the alternative holiday may be taken no later than the end of July in the next fiscal year. Part time staff who are unable to take Memorial Day and/or Juneteenth Day off because of assigned work, will be paid for the time worked and paid four additional hours of holiday pay. This advance holiday scheduling applies only to full time staff for the Memorial Day and Juneteenth Day holiday.

- E. The employee is responsible for maintaining a personal accounting of holiday hours scheduled and taken. The employee must make certain the supervisor knows the intended coding of hours taken off to ensure accurate payroll accounting of holidays. This ensures holidays hours are not forfeited due to not being used.
- F. Department Directors are responsible for scheduling alternate holidays within 90 days of the observed holiday for employees whose regular work schedule requires working the holiday. Documentation should be maintained by the department that the alternate holiday has been taken within the 90-day period.
- G. Holiday leave hours for full time employees are calculated based on the employee's regular daily work schedule. Fire and Rescue Department non-exempt staff who work 24-hour shifts will receive holiday leave hours calculated at 12 hours per designated holiday. Holidays are intended to be taken as a full shift (12 hours for Fire and Rescue Department shift personnel) and not as a partial shift. Exceptions may be granted based on department staffing levels.

Holiday Pay

- A. Scheduled
 - i. Non-exempt, full-time employees on a 12 or 24-hour schedule, scheduled to work a full shift on a holiday will record hours worked and be scheduled an alternative holiday within 90 days (*See Section D of "Holiday Scheduling" regarding Juneteenth and Memorial Day)
 - ii. A full-time, non-exempt employee who is scheduled to work a holiday, non-emergency situation will be paid for the hours worked, receive holiday pay but will not receive an alternate holiday. The holiday pay hours will be recorded as productive time.
- B. Unscheduled/Emergency
 - i. Non-exempt employees who are called into work in emergency situations on official holidays, or which are on-call and are called in will record the hours worked as productive time in calculating overtime pay provided the hours worked exceed their normal work scheduled. An alternate holiday shall be scheduled within 90 days
- C. Full-Time
 - i. A full-time employee must work or be in an approved paid leave status for the full shift on the working day immediately preceding and immediately following a holiday in order to be paid for the holiday.
- D. Part-Time
 - i. Part-time employees scheduled to work a holiday will be paid for the hours worked and paid four additional hours of holiday pay but not receive an alternate holiday.
 - ii. Part-time employees must be in an active status to receive holiday pay. Active work status for part-time employees is defined as having worked a regularly scheduled full shift during the work-week in which the holiday is scheduled.
- E. Forfeiture
 - i. Full-time or part-time employees on shared leave, disciplinary suspension or on unpaid leave of absence at the time of the designated holiday will not be provided paid holiday benefits during said period.
 - ii. Unused holiday hours will be forfeited after 90 days, unless an exception has been requested by the Department Director and approved by the Chief Human Resource Officer and City Manager.
 - iii. Holidays are to be used prior to the end of the fiscal year, June 30 or they will be forfeited. See Section 3.D above for exceptions involving the Juneteenth and or Memorial Day holidays.
- F. Termination/Retirement
 - i. Unused holiday hours for full or part-time employees are forfeited upon termination/retirement.

5.4 SHARED LEAVE

Eligibility

- A full-time employee who is employed in a VRS covered-position and is considered a VRS Plan 1 or VRS Plan 2 member is eligible for shared leave.
- Employee must have at least six months continuous, full-time service with the City of Staunton, used all forms of eligible leave and been absent from work for the illness, injury or incapacitation in a paid or unpaid status for a minimum of seven calendar days. A recipient of shared leave may not exceed one year of absence of regular scheduled hours from the date of illness, injury or incapacitation.

Shared leave provides City employees who have a catastrophic illness, injury, or an extraordinary and unforeseeable circumstance beyond the employee's control with leave donated directly by other City employees. Shared leave can only be used by an employee for her own injury, illness or incapacitation and not for the care of a family member.

Employees using shared leave must be out of work for one full work week using leave or be out on leave without pay before they can use shared leave. Employees will not accrue other forms of paid time off (general leave, holidays, etc.) while using shared leave. Shared leave can be used as an offset to supplement working hours when on light or restricted duty, but the employee will not accrue other forms of paid time off (general leave, holidays, etc.) while using shared leave.

Leave donations to an employee remain available to the employee until the employee has been returned to full duty by their medical provider.

City employees may donate from general leave, major illness and compensatory leave to an employee requesting shared leave. An employee may contribute up to 40 hours to one individual and up to a maximum of 80 hours per fiscal year.

An employee may make a request of shared leave to his Department Director. The Department Director, Chief Human Resources Officer and City Manager will determine approval consistent with policy and practice.

All donations are strictly voluntary and may be made anonymously to Human Resources.

5.5 FAMILY AND MEDICAL LEAVE ACT (FMLA)

It is the City of Staunton's objective to provide eligible employees family and medical leave in accordance with Family and Medical Leave Act of 1993 (FMLA).

Definitions

Active Duty: Duty under a call or order to active duty under a provision of law referred to in 10 U.S.C§101 (a)(13)(B).

Certification: A document from a qualified health care provider which includes the date on which the serious health condition began, its probable duration, and the appropriate medical facts within the knowledge of the health care provider regarding the condition.

Covered Service Member: A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is on the temporary disability retired list, for a serious injury or illness.

Eligible Employees:

- An employee who has been employed by the City of Staunton for at least 12 months (need not be continuous); and
- An employee who has worked at least 1,250 hours during the previous 12-month period (unless absent on military caregiver leave);

Exigency Leave: Leave when an employee's spouse, son, daughter or parent is called for deployment to a foreign country. This leave is to assist service member's family manage their affairs while the covered service member is away.

Health Care Provider: A health care provider is a doctor of medicine or osteopathy who is licensed to practice medicine or surgery by the Commonwealth of Virginia; any other person determined by the Secretary of Labor to be capable of providing health care services; and others capable of providing health care services to include only podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse-midwives, clinical social workers, physicians' assistants authorized to practice in the Commonwealth of Virginia and performing within the scope of their practice as defined under state law and others as provided by federal regulation.

Intermittent Leave: Leave taken in intervals and not consecutively.

Key Position: A position occupied by an eligible employee who is among the highest paid 10 percent of all employees of the City of Staunton.

Next of Kin: The closest blood relative of the injured or recovering service member.

Parent: A parent of the employee or individual who served as the employee's parent and was charged with the duties and day-to-day responsibilities of the parent. A parent does not include parent-in-law.

Serious Health Condition: An illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the job or prevents the qualified family member from participating in daily activities.

Spouse: The husband or wife as recognized under the laws of the Commonwealth of Virginia for the purposes of marriage.

Son or Daughter: A biological, adopted or foster child; step-child; legal ward; or other persons for whom the employee acts in the capacity of a parent. The child must be under age 18 or be age 18 or older and incapable of self-care due to a mental or physical disability or for purposes of military family leave, of any age.

Provisions

- A. The City of Staunton will provide eligible employees up to 12 work weeks of unpaid leave for certain family and medical reasons during a 12-month period. Leave may be taken for any one or for a combination of the following reasons:
 - i. To care for the employee's child after birth, or placement for adoption or foster care;
 - ii. To care for the employee's spouse, son, daughter or parent who has a serious health condition;
 - iii. For the employee's own serious health condition (including any period of incapacity due to pregnancy, prenatal medical care or childbirth) that makes the employee unable to perform one or more of the essential functions of the employee's job; or
 - iv. Any qualifying exigency arising out of the fact that an employee's spouse, son, daughter or parent is a covered service member on active duty or has been notified of an impending call or order to active-duty status in the National Guard, Reserves or regular duty military personnel in support of contingency operation. Exigency leave is for a qualifying event and circumstances, not injury or illness. Events can include short-notice deployment (seven days or less), military events and related activities, related childcare and school activities needs and arrangements, financial arrangements, counseling, rest and recuperation (up to five days for each instance), post-deployment activities (extending 90 days post-termination of duty), and other activities and events that the City of Staunton agrees are covered and with which the City agrees as to time and duration.
- B. Military Caregiver Leave- The City of Staunton will provide military caregiver leave to eligible employees in the following circumstances:
 - i. Extended to an eligible employee who is the spouse, son, daughter, parent or next of kin of a covered service member. Next of kin is defined as the closest blood relative of the injured or recovering covered service member.
 - ii. Employee is entitled to take up to 26 weeks of unpaid leave during a single 12-month period to care for the covered service member with a serious injury or illness.
 - iii. Leave to care for a covered service member shall only be available during a single 12-month period and when combined with other FMLA-qualifying leave, may not exceed 26 weeks during the single 12-month period. This single 12-month period begins on the first day an eligible employee takes leave to care for the injured or recovering covered service member and ends 12 months later, regardless of the 12-month period established for other types of FMLA leave.
- C. For purposes of FMLA, the 12-month period is defined as a rolling twelve (12) month period from the date the first leave begins.
- D. Employees who are on approved Family Medical Leave may not hold employment outside of the City if the work being conducted is similar and/or equal to the position they hold with the City.
- E. Time out of work on Workers' Compensation will count as leave under FMLA provided the injury meets the FMLA definition of serious health condition.
- F. Intermittent Leave or Reduced Work Schedule:
 - i. The employee may use the leave intermittently or under certain circumstances, may use the leave to reduce the workweek or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 work weeks or 26 work weeks to care for an injured or ill covered service member over a 12-month period.
 - ii. The City of Staunton may temporarily transfer an employee to an available alternative position with equivalent pay and benefits.
 - iii. For the birth, adoption or foster care of a child, the City of Staunton and the employee must mutually agree to the schedule before the employee may take the leave intermittently or work

a reduced schedule. Leave for birth, adoption or foster care of a child must be taken within one year of the birth or placement of the child.

G. Leave While on FMLA

- i. Employees on FMLA leave for their own illness, injury or incapacitation will be required to use accrued paid leave (compensatory, general and major illness leave, or parental leave) concurrent with FMLA leave. For further clarification please refer to 5.18 – Parental Leave or, 5.2 – Leave – Major Illness.
- ii. Employees on FMLA leave due to a qualified family member's illness, injury or incapacitation will be required to use accrued general, compensatory, major illness leave or paid parental leave if applicable.
- iii. Employees who do not have accrued leave, or applicable paid paternal leave will be placed on FMLA-leave without pay.
- iv. If an employee's accrued leave balances or available parental leave balances are used for FMLA leave, the employee shall be entitled to the number of unpaid workdays which, when combined with the number of days of other leave taken, equal 12 work weeks.
- v. An employee will not accrue general leave during any period of leave without pay of more than 15 calendar days per month including FMLA-leave without pay.
- vi. A holiday that occurs while on FMLA leave is counted in the hours allowed by FMLA law.
- vii. Exempt employees will be required to account for both full and partial days of FMLA leave in the time and attendance system. Full days of FMLA leave will run concurrent with general and major illness leave. Partial days will be recorded in the time and attendance system, but will not be deducted from leave balances.

H. Benefits During FMLA Leave

- i. During FMLA leave, employees are entitled to continued group health plan coverage under the same conditions as if they had continued to work.
- ii. If FMLA leave is unpaid, employees must pay their portion of the group health premium and other deductions through a method determined by the City of Staunton.
- iii. If an employee fails to make premium payments, the City of Staunton will follow the same procedures to terminate benefits as it would if the employee failed to pay premiums while on a leave without pay status. An employee will be allowed to re-enroll in the health insurance program and other benefits upon return to work from FMLA leave.
- iv. If an employee fails to return to work at the end of FMLA leave, he will be required to reimburse the City of Staunton for the cost of the premiums paid by the City of Staunton for maintaining benefits and coverage during the leave. There will be no recovery of health premiums if an employee fails to return to work due to a serious health condition or other circumstances beyond his control.
- v. Retirement and life insurance benefits will continue to be paid per Policy 6.3.

I. Procedure for Requesting FMLA Leave

- i. Employees requesting FMLA leave must provide verbal or written notice of the needs for the leave to their supervisor.
- ii. When the need for leave is foreseeable, the employee must provide the employer with at least 30 days' notice.
- iii. When the need is unforeseeable, the employee must comply with the City's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.
- iv. Upon notice of absences due to illness, injury or incapacitation in excess of three business days (4th day of absence), the City of Staunton may initiate FMLA paperwork.
- v. The City of Staunton will require written certification of the employee's or the employee's family member's serious health condition using a form designated by the City of Staunton.

- The employee must respond to such a request within 15 days of the request. Failure to provide certification may result in a denial of continuation of leave.
- vi. The City of Staunton may directly contact the health care provider for verification or clarification purposes. Only the Chief Human Resources Officer or his designated official may request and review information. The employee's direct supervisor may not contact the employee's health care provider. To the extent applicable, HIPAA laws and requirements must be met when dealing with all medical information.
 - vii. The City of Staunton has the right to ask for a second opinion if it has reason to doubt the certification. The City of Staunton, at its own expense, will seek an opinion from a second health care provider, which the City of Staunton will select. The City of Staunton may deny FMLA leave to an employee who refuses to release relevant medical records to the health care provider designated to provide a second opinion. The selected health care provider may not be employed or engaged by the City of Staunton on a regular basis regarding the FMLA.
 - viii. The City of Staunton may require recertification for the serious health condition of the employee or the employee's family member no more frequently than every 30 days and only when circumstances have changed significantly, if the employee receives information casting doubt on the reason given for the absence or the employee seeks an extension of leave.
 - ix. The City of Staunton may require an employee on FMLA leave to report periodically on their status and intent to return to work.
- J. The City of Staunton will administer this policy in compliance with the Family and Medical Leave Act of 1993, 29 U.S.C. 201-2654 and implementing Code of Federal Regulations, 29 C.F.R. §§ 825.100 et seq. To the extent that this policy in any respect is contrary to or inconsistent with such controlling law, the policy will be deemed amended to that extent.

Authority:

This policy is issued by the City of Staunton. The City Manager/designee is authorized to grant exceptions based on written request.

Interpretation:

The Chief Human Resources Officer is responsible for official interpretation of this policy and absent designation by the City Manager otherwise, is deemed the City Manager's designee to grant exceptions.

Reference:

Family and Medical Leave Act of 1993, 29 U.S.C. 201-2654

Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191

5.6 WORKERS' COMPENSATION

Workers' Compensation is provided to protect full time and part time employees who have sustained an injury or illness arising out of and in the course of their employment, which has been approved as compensable under the Workers' Compensation Act by the City of Staunton Workers' Compensation insurance carrier. Injury leave and any supplemental payments are above and beyond those required by the Workers' Compensation Act, and are therefore considered to be a fringe benefit.

Workers' Compensation Benefit

- A. Compensability of an injury will be determined by the insurance carrier in accordance with the Virginia Workers' Compensation Act.
- B. An injured employee will receive "Workers' Compensation 1st Seven Days" for an absence from work for a compensable injury or illness of less than eight calendar days. Pay for "Workers'

Compensation 1st Seven Days” will be based on the base salary of the employee and will not include other compensation such as overtime, etc.

- C. When an employee is absent from work for more than seven calendar days because of a compensable injury or illness, the employee shall receive indemnity payments as provided by the Workers’ Compensation Act. Indemnity payments commence with the eighth calendar day as described in Section III. A. Indemnity payments are computed by the Workers’ Compensation insurance carrier and subject to the provisions and limits set by the Workers’ Compensation Commission.
- D. For absences that continue for more than 21 calendar days, the City of Staunton will be reimbursed for the first seven calendar days of the employee’s absence by the Workers’ Compensation insurance carrier. This payment will be made to the City of Staunton by an agreement signed by the City of Staunton and the insurance carrier.
- E. All reasonable and necessary authorized medical expenses associated with a compensable injury or illness will be paid in accordance with provisions of the Act.
- F. All payments to the employee will be in compliance with Section 65.2-300 of the Workers’ Compensation Act and Rule 9.2 of the Virginia Workers’ Compensation Commission.
- G. Should an injury be determined non-compensable by the Workers’ Compensation carrier, the employee will be required to use any available paid leave beginning the day following the determination. If no other leave is available, the employee will be placed on leave without pay.
- H. Temporary and part-time employees will be paid based on the average hours worked in the previous 52 weeks at the hourly rate at the time of injury or illness.
- I. Employees released to modified or light duty for a compensable injury or illness will be offered light or modified duty where available. Failure to accept a light duty assignment may jeopardize the employee’s Workers’ Compensation benefits.

Reporting Procedures

- A. All accidents and/or injuries must be reported to a supervisor and the pre-determined reporting service immediately, or as soon as practical, but no later than 24 hours following the accident or injury. If an employee is unable to contact the supervisor, he should attempt to contact the Department Director or another supervisor in the department. In the event the employee is unable to personally report the accident, the Department Director or designee should report the accident.
- B. Employees must notify their supervisor of any medical treatment needed.
- C. Should treatment be needed, a doctor from the Panel of Physicians must be selected for coverage to occur. If treatment is not received from a Panel Physician, Workers’ Compensation benefits may be terminated, in which event cost of treatment will be borne by the employee.
- D. Supervisors must complete all reporting associated with the injury or illness, providing accurate details and facts through the appropriate channel provided by the Human Resources Department.
- E. The first seven calendar days of an injured employee’s time for a compensable injury will be coded as “Workers’ Compensation 1st Seven Days”.
- F. Beginning on the eighth day after a compensable injury, the employee’s time will be coded as “Workers’ Compensation.”

Effect on Pay and Benefits

- A. Indemnity payments are computed by the Workers’ Compensation insurance carrier, subject to the provisions and limits set by the Workers’ Compensation Commission which will equal 66.66% of the employee’s average weekly wage for the previous 52 weeks. Indemnity payments are not subject to taxes. Indemnity payments will be paid directly from the insurance carrier to the employee.

- B. Should an injury be determined non compensable by the Workers' Compensation insurance carrier, the employee's time off work beyond "Workers' Compensation 1st Seven Days" will be charged to their leave balance. If the employee does not have any leave, they will be placed on leave without pay.
- C. An employee receiving Workers' Compensation benefits will not be charged general or major illness leave.
- D. An employee absent from missing work due to an injury or illness deemed compensable by Workers' Compensation will continue to accrue general leave.
- E. The employee will continue to be covered by the City's health insurance. The employee is responsible for paying the employee portion of the premium.
- F. The employee will be responsible for paying the employee contributions, where required, to any applicable retirement and life insurance benefits.
- G. An employee receiving Workers' Compensation will receive market adjustments.
- H. An employee receiving Workers' Compensation will not be eligible to receive a merit or performance increase until he has returned to duty and a performance evaluation has been completed. The effective date of the performance increase will be the first day of the pay period after the merit or effective date of the increase.

Safety and Health Program

- A. The City will provide a health and safety program which provides a safe work environment and equipment for employees.
- B. The City will provide training to employees in accident prevention, hazard recognition and reporting of injuries.
- C. The City will investigate incidents and injuries to ensure prevention of recurrence.
- D. The City will provide a panel of physicians to be used if medical treatment is needed.
- E. The employee will adhere to all safety rules, procedures, and practices and will use personal protective equipment provided. Failure to do so may result in disciplinary action.
- F. The employee will immediately report all injuries, regardless of severity, to the supervisor or other designated staff member.
- G. The employee will take all standard safety precautions to prevent injury to themselves or others and follow all safety rules and regulations.
- H. Failure to follow safety rules and regulations may result in disciplinary action up to and including termination.

5.7 INJURY LEAVE

Injury leave shall be granted to protect an employee during the initial seven-day period (includes part-time, and seasonal employees) who has sustained an injury or illness arising out of and in the course of his employment and which is formally compensable under the Worker's Compensation Act. Injury leave payments are above and beyond those required by the Workers' Compensation Act and are therefore considered to be a fringe benefit.

Length

Injury leave payments begin the first full day of total disability and provide base salary for the first seven calendar days. There is no deduction from an employee's earned leave during this period. The City's injury leave payments will be discontinued after the first seven calendar days.

Indemnity payments, as provided by the Workers' Compensation Act, begin with the eighth calendar day of total disability. Indemnity payments are computed by applying 2/3 of an employee's average weekly wage (subject to the minimum and maximum limitations set by the Workers' Compensation Commission) to the number of calendar days of disability.

An employee may take their accrued general leave on expiration of injury leave payments. Full-time employees will not earn holiday and general leave while receiving injury leave or indemnity payments. An employee who uses all accrued paid leave may be granted leave without pay for a period not to exceed one year from the date of the initial accident or injury.

Light duty assignment

On a physician's release to light or modified duty, an assignment in the employee's department or another City department will be offered, if at all possible. Light duty is intended as a transition period prior to restoration to full duty and should be limited to a maximum of three months. While on light duty, employees will receive their hourly rate of pay or salary for their pre-injury position.

Subrogation of the City

Any employee sustaining injuries arising out of and in the course of his employment by an act or omission of another person must notify his Department Director and the Chief Human Resources Officer prior to the institution of any proceeding against such other person and prior to the settlement of any claim of the employee against such other person. In the event damages are recovered for such injury, the employee shall promptly reimburse the City to the extent of the injury leave payments received by the employee as a result of such injury, but not to exceed the net amount recovered by the employee after deduction of attorney's fee and costs of suit, if any, and any sum payable to the City as subrogee under the Virginia Worker's Compensation Act. Acceptance of injury leave payments by any employee shall constitute an agreement to make such reimbursements. The Chief Human Resources Officer shall acknowledge such provisions with the employee in writing.

5.8 CIVIL LEAVE

This policy provides guidelines to departments for granting paid leave time to employees who are engaged in certain recognized civic duties. All full time and part time employees are eligible for Civil Leave.

Definitions

Jury Summons: An official document requiring an individual to appear in court and potentially to serve on a jury. Failure to comply may result in legal consequences, including a finding of contempt of court.

Subpoena: An official document, sometimes referred to as a summons, requiring an individual to appear in court as a victim, witness or other participant in a legal proceeding. Failure to comply may result in legal consequences, including a finding of contempt of court.

Provisions

Civil Leave is granted to the employee to fulfill the civic duties and functions recognized below.

- As required by a summons to jury duty.
- To appear as a crime victim or as a witness in a court proceeding or deposition as compelled by a subpoena or summons.
- To accompany the employee's minor child when the child and the parent are compelled to appear in court by a subpoena or summons.
- To serve as an officer of election.

Civil Leave is not recognized and is not granted for use by an employee:

- Who is a defendant in a criminal matter, where criminal matter means either an alleged misdemeanor or felony,
- Who has received a summons to appear in traffic court unless as a witness, or
- Who solely is a party to a civil case, either as plaintiff or defendant or who has any personal or familial interest in the proceedings.

Paid time not charged to Civil Leave:

- Employees attending court as part of their job duties
- Employees under subpoena to appear as a fact or expert witnesses because of their City position.
- An employee's appearance in court, though not part of the employee's job duties, when nonetheless necessitated by a matter that arose out of and in the course of performing the job, if approved by the Chief Human Resources Officer or designee.

Procedures

- Employees should request use of Civil Leave as reasonably far in advance as possible but not less than five days before the date of any related absence.
- Employees may charge to Civil Leave only the time away from work that is necessary, including reasonable travel time.
- Departments may require documentation of the matter to verify that it qualifies the employee to use Civil Leave.
- Employees who appear for jury duty or who serve as an officer of election for four or more hours in one day, including travel time, will not be required to start a work shift that begins on or after 5:00 p.m. on the day of that service or that begins before 3:00 a.m. on the day following the day of service. No adverse personnel action shall occur as a result of employee use of Civil Leave for these purposes. Work shifts missed in compliance with this provision will be charged to Civil Leave.

Compensation/Reimbursement for Civil Leave

- Court-provided reimbursement for expenses received while on approved Civil Leave may be kept by the employee.
- Court-provided fees paid to circuit court or federal court jurors are considered reimbursement for expenses and may be kept by the employee.
- Employees using Civil Leave may not retain payment for services not considered court-provided reimbursement for expenses and must report and remit such payment to the City of Staunton within five (5) days of receipt. Any employee who retains such payments must charge the absence to general leave. Failure to remit such payments within five (5) days will result

automatically in the absence being charged to general leave. If no leave balances are available, time will be charged to leave without pay.

Reference:

§2.2-1201 of the Code of Virginia
§ 18.2-465.1 of the Code of Virginia
§ 24.2-101 of the Code of Virginia
§ 24.2-118.1 of the Code of Virginia

5.9 EDUCATION LEAVE

The City Manager may grant leave with pay for up to thirty (30) days upon the recommendation of the Department Director for the purpose of continuing studies or taking special training which is directly related to the type of work in which the employee is engaged. Such leave shall be for a period equivalent to the period of attendance and reasonable travel time to and from the educational institution.

Should a Department Director believe it to be in the City's best interest to place an employee on education leave and pay all or part of the employee's salary during a period exceeding thirty (30) days, the department budget must be able to absorb the cost, the work program must be able to overcome the employee's absence, and the request must be approved by the City Manager. Should an employee leave City employment, for whatever reason, voluntary or involuntary, during or soon after taking education leave which at the City's discretion causes hardship to the City, the City reserves the right to recover the costs forwarded to the employee.

5.10 LEAVE WITHOUT PAY

An employee (includes part-time employees) may be granted a leave of absence, at the City's sole discretion, without pay or benefits for a specified period of time not to exceed one year. Approval will be based upon the needs of the City at the time of request, including the City's willingness to either allow the position from which leave is taken to remain vacant or to fill it by temporary appointment until the expiration of such leave. Approvals for ten working days or more require the City Manager's approval and will result in an adjustment to an employee's anniversary date according to the length of absence.

Such leave shall not be approved unless the employee has exhausted all general and compensatory leave. No leave of absence without pay shall be granted to accept other work. If an employee's position is abolished while on leave without pay, layoff procedures shall apply. An employee failing to return to work at the expiration of the approved period of leave, unless extenuating and approved circumstances prevent such return, may be subject to immediate termination.

Procedure

All requests for leave of absence (leave without pay), and approvals or denials thereof, shall be in writing. Employee requests shall be submitted in writing to the Department Director stating the reason for the request, the preferred date for the start of the leave, the date of return, and any other pertinent information.

After a consideration, the Department Director, in consultation with the City Manager and Chief Human Resources Officer, will either deny the request or authorize the leave of absence without pay. One copy of the memorandum indicating the decision shall be kept in the originating department and one shall be forwarded to the Human Resources Department for inclusion in the employee's personnel file.

5.11 INCLEMENT WEATHER AND OTHER EMERGENCY LEAVE

It is the intention of the City to maintain its operations during inclement weather and other emergency conditions. Established full and part-time work schedules will be maintained for all employees regardless of weather or other emergency conditions. City Hall and municipal facilities will be open for business at the regular scheduled hours. In only the most extreme conditions, the City Manager or designee may announce a weather or other emergency schedule applicable to all City employees and facilities.

A department director whose department has facilities outside of City Hall, the hours of which do not coincide with the hours of City Hall, has discretion to alter the department's work schedule and/or the opening and closing times of the department's facilities during weather or other emergency conditions. The department director should endeavor to keep such facilities open and to provide services in all but extreme conditions. Alterations made by the department director must be communicated to the City Manager and communicated clearly to the department's employees.

For purposes of this policy, "Inclement weather or emergency schedule time" is defined as time that the employee's work location is not open due to inclement weather or other emergency conditions declared by the City Manager or designee.

Essential Personnel

Employees identified by a department director as being required to work during inclement weather or other emergency conditions shall be "designated" or "deemed" "essential" personnel. It is important to note that designated/deemed essential personnel, whether full-time or part-time, are required to report for duty and remain on duty despite any actions concerning other personnel. Because of their designation and role within the city, absences by non-exempt, essential personnel during inclement weather or other emergency conditions may be considered a disciplinary matter and addressed accordingly. If non-exempt essential personnel are unable to report to work, it is the expectation they communicate their absence to their immediate supervisor as soon as possible.

Schedules for a department's staffing of 24-hour shifts will be determined prior to the start of each shift by the department director. Any exceptions to the reporting requirement for designated or deemed essential personnel will also be determined by the department director. Actual work time in addition to inclement weather time for non-exempt, essential personnel who work during a city closure for inclement weather or other emergency situations shall be considered productive time and count towards overtime. If non-exempt, essential personnel are directed by their immediate supervisor not to report to work or report to work at a later time or leave early, then time should be entered in the time-keeping system in an amount equal to the employee's normally scheduled hours for that day using the inclement weather pay code. While the employee does not receive additional inclement weather time in this scenario, these hours are considered productive time and do count towards overtime. If an employee is scheduled to be off work the day a city closure occurs (partial or full-day), the employee will not be charged leave time up to the amount of the closure.

Non-Essential Personnel

Each employee, whether full-time or part-time, who is not designated or deemed essential, must make a decision concerning travel to their assigned work location during inclement weather or other emergency conditions in which their work location is open based on their individual circumstances. When an employee's assigned work location is open, the employee must use available leave if the employee elects to be absent from work during inclement weather or other emergency conditions. An employee without accrued leave will not be paid due to their failure to report to their assigned work location when the work location remains open and is not closed by the City Manager or designee.

In the event an employee's assigned work location is closed for the full shift schedule or portion thereof due to weather or other emergency conditions, the employee will not be charged available leave for the portion of the absence during which the assigned work location is closed. In this scenario, time should be entered in the time-keeping system in an amount equal to the employee's normally scheduled hours for that day (partial or full-day) using the inclement weather pay code. These hours are considered productive time and do count towards overtime. In such circumstances, part-time employees will be paid for time for which they were scheduled. If an employee is scheduled to be off work the day a city closure occurs (partial or full-day), the employee will not be charged leave time up to the amount of the closure.

A department director may determine on an event specific basis whether an employee is deemed or designed essential. For example, an Accounting Technician may be deemed essential if a closure occurs during a payroll week, but not if it occurs during a non-payroll week. In this scenario, time for non-exempt personnel who are temporarily deemed essential by their supervisor who work during a city closure for inclement weather or other emergency situations shall be considered productive time and count towards overtime. Time should be entered as described in the essential personnel section of this policy.

In general, an employee who is not deemed or designated essential may not report to, or remain at, the employee's assigned work location or any other City facility, in the event of the closure of the employee's assigned work location. Should such employee report to or remain at work in this scenario with or without permission by their immediate supervisor, time should be entered as if a normal workday but the employee would not receive the additional inclement weather time. Lack of permission to be physically present at the employee's work location by their immediate supervisor may be considered a disciplinary matter and addressed accordingly.

An exempt employee may be required to use paid leave for a partial day if the employee elects not to report to the employee's assigned work location, as scheduled, on a day on which the assigned work location is closed for part, but not all, of the day.

5.12 DISCRETIONARY LEAVE

Exempt employees are paid on a salary basis to assume primary responsibility for planning, administering and coordinating the day-to-day operations of their respective departments/offices. This type of management/administrative position often requires hours in excess of the normal 40-hour work week to ensure that schedules are met, quality service delivery is maintained, and that consultation or other administrative requirements are met.

Although exempt employees are not eligible for overtime pay or compensatory time, the City Manager or Department Directors may, at their discretion, recognize the duties and responsibilities of an exempt

employee by allowing time away from work designated as discretionary leave. It should be understood, however, that Discretionary Leave is a privilege granted to exempt employees by the City Manager or Department Director and is not to be construed as a right of employment. Discretionary Leave may be authorized by the City Manager for consideration by Department Directors on an annual basis and should not be used until granted. Unused discretionary leave hours will be forfeited upon termination.

5.13 DEATH-IN-FAMILY LEAVE

Leave allowance with pay shall be granted up to a maximum of 24 hours, unless otherwise provided by law, immediately following the death of a member of the immediate family. If circumstance warrant, death-in-family leave may be used intermittently within a reasonable time period with prior director approval. The immediate family is defined as father, mother, sister, brother, spouse, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, step-mother, step-father, step-child, a foster parent or child, a child where the employee stood in loco parentis, or person living in the same household as the employee. In addition, the City shall give consideration as immediate family an individual residing within the employee's household who is related by blood or affinity and whose close association with the employee is the equivalent of a family relationship. The Department Director shall make this determination. If more than the allotted number of hours is required or if leave is desired for a death other than immediate family, as defined above, other leave available to the employee (i.e., general leave, compensatory leave, or leave without pay) may be used).

5.14 VOLUNTEER TIME

The purpose of volunteer time is to provide eligible employees paid time off from their normal scheduled work-day/week for volunteering in humanitarian, education, charitable, non-profit or public services activities. The intention is to recognize employees of the City of Staunton as community builders and to provide an avenue for them to give back and support local and global communities.

Eligibility

All full-time employees who have completed their initial period of employment are eligible to use volunteer time. Employees can choose a charity of their choice or work together with other employees on a team effort.

Ineligibility

Employees are ineligible to participate in the program if the employee's performance does not meet acceptable standards and/or the employee has been subject to disciplinary action within the last twelve months. City approved volunteer time may not be used in support of organizations that discriminate based on protected characteristics.

Amount of Time

Full-time employees may use up to 16 hours of volunteer time per fiscal year toward volunteering with an IRS recognized, charitable organization. In the event of a natural disaster, use of paid volunteer time may

be considered in consultation with the employee's director and City Manager/Designee if the volunteer activity/service project is not sponsored by an IRS recognized, charitable organization. Volunteer time is not considered productive time in the calculation of overtime, but is considered paid time off from an employee's normal work schedule, and will be paid at the employee's normal rate of pay when taken. Volunteer time may be taken in no-less-than 1-hour increments.

Volunteer time is refreshed at the beginning of each fiscal year, unless the program is amended or discontinued, and does not carry over from year to year. Unused volunteer time is not paid upon separation from employment.

Abuse or misuse of this policy by an employee could result in disciplinary action.

Approval Process

An employee must have requests for volunteer time approved in advance. Approval is at the discretion of the employee's Department Director, taking into consideration the aforementioned aspects of this policy, as well as departmental constraints, such as staffing, scheduling, budget, etc.

Examples of appropriate uses for volunteer time:

- volunteering with a United Way agency
- assisting in the construction of a home for Habitat for Humanity
- donating one's time at a food bank
- adopt-a-Street cleanup
- participating in Big Brother/Big Sister programs

Upon returning to work from volunteering, the employee should provide a letter from the organization served, signed by an authorized representative of the organization, on the organization's letterhead, stating the following:

- volunteer's name
- organization's name, physical address and federal tax identification number
- date(s) and number of hours of work performed
- description of tasks and duties performed

5.15 VRS HYBRID EMPLOYEE SHORT- AND LONG-TERM DISABILITY COVERAGE

VRS Hybrid Retirement Plan (Hybrid) employees are provided short-term disability (STD) and long-term (LTD) disability benefit administered by a third-party provider in accordance with § 51.1-169 of the Code of Virginia.

There is a one-year waiting period before being eligible for any STD benefits. The eligibility waiting period of one year is waived for work-related claims. The benefit elimination period may be waived for catastrophic or chronic conditions.

STD benefits are provided to a Hybrid employee during a sickness/disability. Once the employee has been deemed eligible for STD benefits, a benefit elimination period of seven calendar days must be satisfied before benefits are payable. The required workdays during the benefit elimination period must be covered by the employee's available leave balance or will be leave without pay.

The compensation benefit payable during the STD absence is based on continuous months of service and will provide partial or full income replacement for a maximum of 125 days. Compensation is paid directly to the employee by the City.

The Hybrid Retirement Plan employee will be permitted to supplement their income of less than 100% compensation by utilizing available leave balances to offset the difference in pay to reach 100% of the her base salary. The amount of available leave used cannot exceed 100% of the employee's base salary.

Hybrid Retirement Plan employees are provided a long-term disability (LTD) benefit that will begin upon the expiration of the maximum period of 125 days for which the employee receives STD benefits.

During the STD absence, employees will remain "active" and all benefits will remain in effect except employees on STD will not accrue other forms of PTO. Employees must cooperate and adhere to all guidelines and requirements of the City and the third-party administrator during the absence.

5.16 MILITARY LEAVE

Employees will be granted military leave with or without pay with applicable benefit and job protections consistent with the Uniformed Service Employment and Reemployment Right Act (USERRA) of 1994, and Code of Virginia §44-93. An employee who is a member of the reserve forces of the armed services of the United States, National Guard or Naval Militia is entitled to a leave of absence on days when the employee is attending required training. The City grants up to twenty-one (21) days of military leave per federal fiscal year (October 1 to September 30). The leave does not count against accumulated general leave. The employee is paid his or her normal earnings while on leave. Pay is determined by using the 1/260 workday calculation method:

	Scheduled Work	Multiplier Per federal Law	Calculated hrs per Workday Per federal Law	Days of Military leave Per federal law	Calculated Hours of Military leave
FIRE	$\frac{365 \text{ days per year}}{14.04 \text{ days in a work period}} = 26 \text{ work periods per year}$ $\frac{106.38 \text{ hours per work period}}{2766 \text{ hours worked per year}}$	x 1/260	= 10.60	x 21	= 223.44
12-HOUR SHIFT EMPLOYEES	$\frac{365 \text{ days per year}}{14 \text{ days in a work period}} = 26 \text{ work periods per year}$ $\frac{84 \text{ hours per work period}}{2184 \text{ hours worked per year}}$	x 1/260	= 8.40	x 21	= 176.5
ALL OTHER EMPLOYEES	$\frac{365 \text{ days per year}}{7 \text{ days in a work period}} = 52 \text{ work periods per year}$ $\frac{40 \text{ hours per work period}}{2080 \text{ hours worked per year}}$	x 1/260	= 8.00	x 21	= 168

Employees that exhaust the paid military leave and are mobilized for duty can elect to go into leave without pay status, or use their accrued general or compensatory leave. An employee must present his or

her military orders to their Department Head prior to the effective date of leave. This policy does not apply to periodic weekend drills or attendance at military schools.

Generally, under USERRA leave for up to five years can be taken for military duty, including National Guard duty, with reemployment at the end of the leave if certain conditions are met.

Employees who need military leave should contact their supervisor or the Human Resource Department concerning military leave and the City's duty to provide such leave and the employee's obligations.

5.17 ORGAN DONATION LEAVE

The City of Staunton shall provide an eligible employee up to 60 business days of unpaid organ donation leave in any 12-month period to serve as an organ donor and up to 30 business days of unpaid organ donation leave in any 12-month period to serve as a bone marrow donor. "Organ donation leave" means leave of an eligible employee for the purpose of donating one or more of such employee's human organs, including bone marrow, to be medically transplanted into the body of another individual.

"Eligible employee" means an individual who has requested that the City of Staunton provide organ donation leave and who, as of the date that the requested organ donation leave begins, will have been employed by the City of Staunton for at least a 12-month period and 1,250 hours during the previous 12-months.

To receive organ donation leave, the employee shall provide written physician verification to the City of Staunton the eligible employee is an organ donor or a bone marrow donor and there is a medical necessity for the donation of the organ or bone marrow.

No employee shall take organ donation leave concurrently with leave taken under the federal Family Medical Leave Act (29 U.S. C. § 2601 et seq.).

Reference:

§40.1-33.8 of the Code of Virginia

5.18 PARENTAL LEAVE

In its commitment to healthy families, the City will provide up to eight (8) workweeks per year (rolling twelve-month period) of paid parental leave to eligible employees following the birth of an employee's child or the placement of a child with an employee in connection with surrogacy, adoption or foster care. Of those eight weeks, up to four (4) weeks can be used in a rolling 12-month period to eligible employees for activities related to the care and well-being of a parent with a serious medical condition. These leave allowances cannot be combined.

The purpose of the policy is to establish guidelines for the consistent administration of paid parental leave (PPL). This policy on PPL works in conjunction with Policy 5.5, Family Medical Leave Act (FMLA), and Policy 5.15, VRS Hybrid Employee Short-and Long-Term Disability Coverage.

Each week of PPL is compensated at one hundred percent of the employee's regular, straight time weekly pay in their applicable hours (e.g., 40 hours per week, 53 hours per week, 30 hours per week, etc.) and is outlined in hours as follows:

Full-Time, Regular Personnel (2080 hours per year) – not to exceed 320 hours of parental leave

Full-Time Fire Suppression Personnel (2766 hours per year) – not to exceed 424 hours of parental leave

Part-Time, Regular Personnel (Average weekly hours determined utilizing a 12-month look- back period of regular, non-overtime, worked hours from date of event).

Seasonal/Temporary Personnel - excluded from the Parental Leave Policy

Policy

Paid Parental Leave (PPL) is for:

- An employee (birthing or non-birthing) to care for and bond with a newborn, newly adopted, or newly placed child age 17 or younger; limited to one occurrence per child. The adoption of a new spouse's child or children is excluded from this policy.
 - Pregnant Workers Fairness Act

The Pregnant Workers Fairness Act addresses reasonable accommodations to a qualified employee's known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship. If an employee believes that additional leave related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions beyond the scope of this policy is necessary as a reasonable accommodation, the employee shall inform the Department of Human Resources about this reasonable accommodation request.

- An employee who engages in activities related to the care and well-being of a parent with a serious health condition. Parent does not apply to an employee's parent-in-law.

Eligibility

To be eligible for PPL, city employees must meet the eligibility criteria for FMLA.

They must:

- Be employed by the city for at least twelve (12) consecutive months;
- Have worked a minimum of 1,250 hours of service during the 12-month period immediately preceding the commencement of leave.
- Meet the FMLA criteria for one or more of the five (5) PPL categories below.

Types of Paid Parental Leave

Paid Maternity Leave for Birthing Mothers (including genetic or non-genetic surrogacy)

- All eligible full-time employees shall be granted up to eight (8) weeks of paid maternity leave within a rolling 12-month period.

- All eligible part-time, regular employees will receive up to eight (8) weeks of paid maternity leave proportionate to the scheduled number of hours worked per week during the past twelve (12) months.
- The use of maternity leave must be continuous and cannot be used intermittently. If there is a business need for the employee to work intermittently the Department Director and Chief Human Resources Officer may approve an exception to this policy.
- Short-Term Disability: PPL will be used to supplement reduced income replacement disability benefits following the birth of a child and/or may be accessed after the STD benefits related to the birth cease.
- PPL must be used within six (6) months of the birth of a child.

Paid Bonding Leave

- After the birth of a child, the full-time, non-birthing parent will receive up to eight (8) weeks of paid bonding leave within a rolling 12-month period for bonding and care of a newborn.
- All eligible part-time, regular employees will receive up to eight (8) weeks of paid bonding leave proportionate to the scheduled number of hours worked per week during the past twelve (12) months.
- The use of paid bonding leave must be taken continuously and cannot be used intermittently. If there is a business need for the employee to work intermittently the Department Director and Chief Human Resources Officer may approve an exception to this policy.
- Parental leave must be used within six (6) months of the birth of a child.

Paid Birth Leave through Surrogate, Adoption or Foster Care Placement

- After the surrogate birth, adoption or placement of a child, full-time employees will receive up to eight (8) weeks of parental leave (for bonding) within a rolling 12-month period.
- All eligible part-time, regular employees will receive up to eight (8) weeks of surrogate birth, adoption or foster care placement leave proportionate to the scheduled number of hours worked per week during the past twelve (12) months.
- The use of paid bonding leave for placement of child through surrogacy, adoption or foster care must be taken continuously. If there is a business need for the employee to work intermittently the Department Director and Chief Human Resources Officer may approve an exception to this policy.
- Parental leave must be used within six (6) months of surrogacy, adoption or foster care placement.

Paid Leave for Employee's Parents

- All eligible full-time employees may use up to four (4) of their eight (8) PPL weeks within a rolling 12-month period to care for a parent with a serious health condition as defined under the Family Medical Leave Act.
- All eligible part-time, regular employees will receive up to four (4) weeks paid parental leave proportionate to the scheduled number of hours worked per week during the past twelve (12) months.
- PPL for a parent with a serious health condition may be taken continuously or intermittently.

Paid Parental Leave Stillbirth

- In the unfortunate event of a stillborn birth, the birthing mother who had the stillbirth is eligible for two (2) weeks of PPL. Leave must be continuous. The non-birthing parent is ineligible to receive PPL when a child is stillborn but is eligible for up to three (3) days of Death-in-Family Leave (refer to Death-in-Family Leave Policy 5.13). A stillbirth is defined as a loss of a baby at or after 20 weeks of pregnancy, according to the CDC.

(Note: In the unfortunate event of a miscarriage, the employee would not be eligible for paid parental leave but is eligible for up to three (3) days of Death-in-Family Leave and may request FMLA. A miscarriage is defined as the loss of a baby before the 20th week of pregnancy, according to the CDC.

Use of Paid Parental Leave

- Paid parental leave will be used in conjunction with and run concurrently with the eligible employee's Family Medical Leave and will be applied towards the Family Medical Leave Act's eligible hours.
- Limitations/Restrictions-Paid parental leave will be based on the employee's FMLA eligibility balance. For example: If a full-time employee only has a remaining balance of one week of FMLA leave, the employee would only be eligible for one week of paid paternal leave.
- Paid parental leave, whether for birth, bonding, placement for child through surrogacy, adoption or foster care or care for a parent is limited to a total of eight-weeks in a rolling 12-month period.
- Eligible employees where both parents are employees of the City will be limited to a combined total of 8-weeks of paid parental leave for the birth, bonding, placement of child through surrogacy, adoption or foster care.
- Paid parental leave is designed to be used continuously. Department Directors in concert with the Chief Human Resource Officer can review intermittent paid parental leave requests on a case-by-case basis considering the needs of the employee and the City and City Department.
- Virginia Retirement System Hybrid members will be required to process any applicable short-term disability claim(s), and paid parental leave will be used to supplement any wage deficit.

Procedures

Employees shall submit a written request for parental leave at least thirty (30) calendar days prior to the anticipated leave start date or as soon as practicable.

To qualify for parental leave, employees are required to submit the FMLA Certification of Health Care Provider form and/or other supporting documentation to the Human Resources Department.

6.1 BENEFITS ELIGIBILITY

All full-time employees appointed by the City Manager are eligible for the benefits provided in this section. As such, they are subject to the terms, conditions, and stipulated waiting periods as may be provided. Part-time, temporary, and seasonal employees are not eligible for paid benefits and are therefore expressly excluded from the provisions of this section unless otherwise indicated. Nothing contained in this policy creates a contract or an implied contract between the employee and the City.

6.2 HEALTH PLAN

The City of Staunton provides a group health plan which covers hospitalization, surgical, and major medical health coverage for non-occupational injuries and illnesses. The benefits are described in detail, along with limitations and other provisions, in the City of Staunton's summaries of benefits coverage (SBC) and other applicable education materials.

Coverage

Active Employees Coverage

1. Coverage is available to employees in full time, continuous positions. Part time employees, except those that meet requirements of the Affordable Care Act (ACA), and 40-hour seasonal employees are not eligible for coverage.
2. Premiums are paid through payroll deduction a month in advance for dental only.
3. The City offers single coverage for enrolled employees and optional coverage for dependents as defined by the City's plan.
4. New employees are eligible for coverage the first full calendar month of employment.
5. Employer-paid coverage terminates at the end of the month in which an employee leaves the City's service.
6. The City complies with Consolidated Omnibus Budget Reconciliation Act (COBRA). COBRA offer employees and covered members of their family the right to choose to continue group health benefits for a limited period of time provided they meet qualifying event requirements. Premiums plus an administrative fee must be paid by the insured with no contribution by the City. As such, employees are required to inform Human Resources within established time limits of any change in marital or dependent status so that appropriate notification procedures can be followed.
7. Employees may change coverage during open enrollment or within 31 days of an eligible family status change as defined by IRS Code § 125 of the Internal Revenue Code.
8. The City complies with the Health Insurance Portability and Accountability Act (HIPAA). HIPAA privacy rules restrict the City and its vendors' ability to disclose personal health information (PHI) and restricts the uses that the City may make of PHI.
9. Spouses/dependents of active employees who become eligible for Medicare benefits due to age will be terminated from coverage on the effective date of their Medicare coverage. The employee is responsible for immediately notifying and completing the paperwork for the Human Resources to terminate the dependent's coverage.

Active Employees Suspension of Health Insurance Coverage

1. Employer-paid health coverage shall be suspended in the following circumstances:
 - a. When an employee is on disciplinary suspension in any month for more than 15 calendar days in the month.
 - b. When an employee is on leave without pay for more than 30 calendar days except for FMLA.
 - c. When an employee fails to pay the employee portion of the monthly premium. The City will promptly notify the employee of the premium payments and every effort will be made to ensure coverage.
 - d. When an employee is on military leave for more than 30 consecutive days in which event coverage should be suspended for the employee and the employee's dependents who are enrolled under the employee's plan. The employee and the employee's dependents are eligible to enroll in COBRA coverage. Upon return to City employment, health benefits coverage can be reinstated.

2. Employees may continue health coverage by paying the full monthly premium (employee coverage plus any dependent coverage) for the period the coverage is suspended.

Retiree Health Coverage

- A. Retiree Eligibility – Retirees must meet the following eligibility requirements to participate in the City’s health insurance plan:
 - i. Meet Virginia Retirement System (VRS) requirements for “service retirement” or “disability retirement” and immediately receive a retirement benefit from VRS. Individuals who resign from City employment and delay receipt of retirement benefits (i.e., defer retirement) are not considered retirees and therefore are not eligible.
 - ii. Participate in the City’s health insurance program immediately preceding retirement. City employees hired on or after March 22, 2018 must have been employed in a full-time VRS covered position for a minimum of ten (10) years, and employed with the City of Staunton for all five (5) years immediately preceding retirement to be eligible for retiree health insurance through the City of Staunton.
 - iii. Participate in the direct debit system for premium payments (only applies to individuals who retire on/after September 1, 2001.)
 - iv. Not eligible for Medicare coverage.
 - v. Must retire from the City of Staunton in good standing (i.e. not involuntarily terminated.)
- B. Spouse and Dependent of Retiree Coverage – Spouse and/or eligible dependents may remain on the retiree’s policy provided they meet the following qualifications:
 - i. The spouse and/or dependent(s) of the employee must be on the City’s health insurance plan for at least one full year preceding the employee’s retirement date to remain on the plan. This requirement for eligibility purposes, shall take effect one year from the date of Staunton City Council approval of this policy.
 - ii. Spouses and dependents may not be added to the retiree’s policy once in retirement. Spouses and dependents may be removed from the retiree’s policy at open enrollment and due to qualifying events.
 - iii. Meet the eligibility requirements of the plan.
 - iv. Upon the death of the retiree, the individual may remain on the plan until they have reached the age for Medicare coverage or cease to meet eligibility requirements of the Plan. The individual is responsible for 100% of the premium payment with no contribution by the City and must comply with the direct debit system for premium payments.
 - v. Spouses and dependents are permitted to remain on the plan once the retiree has reached the age for Medicare eligibility, so long as they meet all other requirements. Spouses and dependents are responsible for 100% of the premium payment with no contribution by the City and must comply with the direct debit system for premium payments.

C. Retiree and Spouse/Dependent Termination of Coverage

- i. Retirees and dependents whose coverage terminates for whatever reason are not eligible to re-enroll in the City sponsored plans.
- ii. Benefits/coverage will cease for the retiree and/or the retiree's spouse/dependent under the following conditions:
 - The retiree and/or spouse/dependent qualifies for Medicare coverage due to age eligibility.
 - Failure to pay premiums in a timely manner.
 - Written notification from the retiree that coverage is no longer desired.
 - The retiree's coverage is terminated for cause as defined by the plan.

Cost of Coverage

The City of Staunton will contribute toward health care premiums for active employees, retirees and/or spouse and dependents at the discretion of the City Council. The health benefits and coverage may be revised or terminated at any time by action of City Council.

References:

Health Insurance Portability and Accountability Act (HIPAA),
Consolidated Omnibus Budget Reconciliation Act (COBRA),
Internal Revenue Code 125

6.3 RETIREMENT AND LIFE INSURANCE

The City provides retirement and life insurance benefits through the Virginia Retirement System (VRS). Eligible employees are required to become members of VRS. Reference should be made to the appropriate VRS Handbook for Members for detailed explanations of benefits, rules and regulations.

Retirement contributions are made by a combination of employee and employer contributions. Employee contributions are made on a pre-tax basis. Employer contribution rates are set biannually by the VRS. The City also provides each eligible participant with basic group term life insurance equal to the amount of their base annual wage rounded to the next higher thousand and then doubled. Certain provisions apply for accidental death and dismemberment provide up to twice the normal death benefit. For example: an employee whose annual base pay is \$23,248 is insured for \$48,000 in case of natural death and for \$96,000 in the event of an accidental death.

Eligibility

Eligible employees become members of VRS at the beginning of their first full month of employment with the City. VRS is a retirement system administered by the Commonwealth of Virginia. The rules and regulations regarding contributions and benefits are made by the Virginia General Assembly. The City, as a member employer, must comply with all statutes and regulations established by the General Assembly. The City reserves the right to participate in another retirement system should it deem appropriate.

Suspension of Retirement and Life Insurance Coverage

Retirement and group term life insurance benefits shall be suspended in any month that the employee is not able to pay the 5% employee contribution to VRS and/or the basic and optional group life insurance premium to VRS. Employees may continue group life insurance coverage by paying the full monthly premium for the period the coverage is suspended.

Termination of Employment (Other Than Retirement)

Retirement and group term life insurance contributions shall be paid based on the last month in which the employee works. The employee should receive service credit and make the employee contribution to VRS for any time worked in a month, and this amount is not pro-rated. Since the employee is required to pay the 5% employee contribution, this amount will be withheld from an employee's last paycheck. If an employee's last paycheck is insufficient to cover this amount, the employee's last date of employment for VRS purposes will be considered the last working day of the preceding month and the employee will not receive service credit for the last month worked.

6.4 RETIREMENT GIFT

The importance of rewarding commitment and loyalty of long service employees is recognized by the City of Staunton. It is the intent of the City of Staunton to provide such recognition. The City of Staunton wishes to recognize the long-term commitment of employees who have faithfully served the City for uninterrupted and extended years of services. Recognizing the long service commitment of its full-time employees provides benefits to the City, including:

- Retention of valued expertise;
- The creation of a positive work environment and;
- Lower staff turnover.

Eligibility

Employees must have been employed in a full-time VRS position for a minimum of ten (10) years, and employed with the City of Staunton for all five (5) years immediately preceding retirement to be eligible for the retirement gift through the City of Staunton.

The City has allocated up to \$300.00 to spend on employees who meet the eligibility requirements set forth above. Directors/supervisors may request a purchase of an item or gift card/certificate or funds to pay for a retirement celebration (as deemed appropriate by the City Manager or designee). In addition, a retiree may choose between a \$150 gift card and an unframed certificate recognizing years of service or a framed certificate recognizing years of service.

For purposes of this policy, an item or gift card/certificate is an item similar to a plaque or other memento pursuant to the Virginia Conflict of Interests Act.

*A gift card/or gift certificate regardless of the dollar value, shall be considered the same as cash by the Internal Revenue Service and is considered taxable income to the employee and will be taxed according to IRS rules and regulations.

6.5 UNEMPLOYMENT INSURANCE

All employees (includes part-time, temporary and seasonal employees) are covered under the Virginia Unemployment Compensation Act. Employees terminated for gross misconduct or who voluntarily resign without good cause are not eligible for benefits.

6.6 SOCIAL SECURITY

All employees (includes part-time, seasonal and temporary employees) shall be covered by Social Security.

6.7 OPTIONAL BENEFITS

The City offers employees (including part-time employees) the option of participating in approved benefits at their own expense by authorizing payroll deductions to cover the benefit cost.

6.8 EMPLOYEE ASSISTANCE PROGRAM

The City may provide a confidential Employee Assistance Program (EAP) to assist employees with training and professional development, as well as to provide counseling and referral services for help in solving personal problems, both on and off the job.

Realizing stress, personal, financial, and relationship problems, etc. may adversely affect morale, job performance and engagement, employees may seek assistance through the City's EAP provider. The voluntary use of the EAP is strictly confidential.

Supervisors should be alert to detect the existence of personal problems observable in such behaviors as excessive absenteeism, changes in conduct and attitude, and substandard job performance. If such behaviors are observed, the supervisor will make the employee aware of professional resources available to City employees and refer the employee to Human Resources or directly to the EAP. Referral resources are available for substance abuse, psychological counseling, medical problems, and social services.

7.1 EDUCATION AND TRAINING

The City strives to encourage every employee to further their education, training, and professional development in subjects related to their work and to broaden their knowledge and skills in preparation for potential job responsibilities. The City will further this policy by reimbursing or paying for pre-authorized tuition and seminar costs. Approval and reimbursement or payment of job-related course work, or other city approved course of study will be made consistent with Internal Revenue Service taxable limitations, and to the maximum extent consistent with budget limitations and appropriations by the Staunton City Council.

7.2 EMPLOYEE EVALUATION

The Chief Human Resources Officer shall administer a program for rating the work performance of City employees. The performance evaluation program shall be designed to permit the evaluation of each employee's performance of her job duties. Each Department Director is responsible for administering the performance evaluation program on a departmental level. Supervisory feedback, in addition to the annual performance evaluation, concerning an employee's performance is encouraged.

- A. All full-time employees and those part-time employees who work on a regular basis throughout the year shall have their work performance evaluated. A Department Director may evaluate the performance of any other employee as desired.
- B. A performance evaluation should be made and discussed with an employee, at least annually, on or about the employee's anniversary date. A performance evaluation may also be made at any other time the Department Director believes it beneficial to do so.
- C. Performance evaluations shall be used to assist in the employee's development, awarding of merit pay increases and selecting employees for promotion, and to determine lay-off implementation when two or more employees are basically qualified to fill one position. Employee evaluations will also be used in consideration of disciplinary action.
- D. Each employee shall have the opportunity to review and sign every evaluation made of her performance. Upon a review of the evaluation, the employee may note in writing that the evaluation is agreeable or request a review of the evaluation by a higher level of authority. An employee shall be provided or have access to copies of their own performance evaluations.

8.1 OCCUPATIONAL SAFETY

Department Directors shall be responsible for establishing safety regulations and procedures applicable to all personnel and operations under their control. Such safety regulations are to be reviewed and recommended by the Chief Human Resources Officer, subject to final approval by the City Manager. Each employee is required to adhere to all safety procedures set forth by the City and state and federal agencies. It is the obligation of all employees to report any unsafe conditions to the appropriate supervisor or Department Director.

8.2 EMPLOYEE MOTOR VEHICLE LICENSE AND OPERATION

It is the policy of the City of Staunton to endeavor to protect its employees from injuries caused by motor vehicle/equipment accidents; ensure compliance with all applicable City, state and federal laws and regulations and to limit City of Staunton's liability exposure.

Definitions

Accident - A traffic crash or incident which usually involves one road vehicle colliding with another vehicle, another road user, or a stationary roadside object, whether on or off the road and which may result in injury, property damage, or possibly death.

Essential Driving Position - Position identified by the City which requires the employee to operate a vehicle in order to perform the essential functions assigned to the position.

Authorized Vehicle Use

- A. Only employees authorized by the City Manager, the Department Director or their designee are eligible to use City vehicles and equipment.
- B. Essential driving positions are defined by each Department Director. Essential driving positions are positions where there is a need to use a vehicle in the course of and to accomplish the job duties.
- C. All drivers are responsible for the safe operation of equipment and vehicles, for obeying all traffic rules and regulations prescribed by law, and for obeying all city and department policies and procedures.
- D. All employees operating vehicles and equipment must have a valid driver's license with the proper endorsements and a good driving record.

Driver Eligibility Requirements

- A. All applicants for positions which require the use of a city vehicle or their personal vehicle in the course of official City business must have their Virginia Department of Motor Vehicles (DMV) record checked prior to the final position offer.
- B. An employee is eligible to drive a city vehicle upon satisfactory review of their DMV driving record.
- C. The City will utilize the DMV system of point assessment to determine eligibility to operate City vehicles.
- D. New employees hired from outside the state of Virginia, who must drive in the course of their position duties, must obtain a Virginia Driver's license within 60 days of employment.
- E. New employees who have an out-of-state CDL hired into a position requiring a CDL must obtain a Virginia Driver's license with CDL endorsement within 30 days of employment.
- F. It is the responsibility of the individual employee to inform their supervisor in the event an operator's license is restricted, suspended or revoked. Penalty points resulting in a -1 driver points or more must be reported to the supervisor upon assignment. Employees who fail to do so will be subject to disciplinary action up to and including termination.
- G. An annual driving record will be obtained for all City personnel driving City vehicles in the course of their employment at the time of their performance evaluation. A Request for Driving Record Transcript should be completed and signed by the employee, and forwarded to Human Resources. Performance pay increases may be withheld until the DMV record is reviewed and an acceptable driving record is noted.
- H. The City of Staunton will abide by all DMV regulations concerning accessing and protecting the confidentiality of records. DMV transcripts will not be provided to department staff or the employee.

Personal Tax Liability:

IRS regulations state that personal use of a City vehicle (i.e. commuting to and from work), with the exception of marked or unmarked, law enforcement or marked fire vehicles, is considered a taxable fringe benefit that must be added to the employee's gross wage. The City computes the value of this benefit using a \$3.00 per day benefit to the employee. Based on 48 weeks x 5 days x \$3.00, the total added to an employee's wage would be \$720 annually. This income is subject to FICA, Medicare, Federal and State withholding taxes. This policy may be revised at any time based upon changes in the IRS regulations or overridden by a change in IRS regulations.

Vehicle Accidents

- a. All motor vehicle and rolling stock accidents will be reported regardless of the severity.
- b. All City vehicle accidents will be reported to and investigated by law enforcement as soon as the situation permits.
- c. All City vehicle accidents will be reported to the operator's immediate supervisor as soon as the situation permits. The supervisor and employee will complete and submit an accident report form to the risk manager.
- d. If a City employee is injured as a result of vehicular accident, a report of the injuries should be made to the City's workers compensation insurer as soon as the situation permits, but no later than 24 hours following the accident. If the employee is unable to report the accident, the supervisor should do so as soon as practical.
- e. An employee involved in an accident while driving a City vehicle will be required to successfully complete an approved driver training course (online or in-person) within 30 days of the accident if the employee is deemed to be at-fault.

Post-Accident Testing Policy

Please refer to the Post-Accident Testing Policy found under Section 3.4 Drug and Alcohol Free Workplace Policy. This applies to all applicants and employees operating motor vehicles and equipment.

Vehicle Operation

- A. It is the responsibility of all operators to ensure that all equipment and vehicles are properly maintained and serviced and to report any defect in mechanical equipment to the appropriate authority.
- B. Safety checks will be conducted on all City vehicles before use with documentation completed per department procedures.
- C. Any vehicle which has a known safety problem is not to be used in conducting City business. If a problem is identified it will be reported to the appropriate authority and a determination will be made on action to be taken.
- D. All employees and passengers are required to wear safety belts while operating or riding in a City vehicle or any other vehicle when engaged in City business except as stipulated in the Code of Virginia § 46.2-1094. B. An employee who violates this rule may lose the right to collect benefits under the Virginia Workers' Compensation Act.
- E. It is the responsibility of the driver to ensure that all passengers wear seatbelts while riding in the vehicle.
- F. Except where exempted under Code of Virginia §46.2-818.2, employees are prohibited from using hand-held personal communications devices , while driving.

Driver Restrictions

- A. Employees are not permitted, under any circumstance, to operate a vehicle when any physical or mental impairment causes the employee to be unable to drive safely. Employees are required to report physical or mental impairments to their supervisor promptly.
- B. Employees who utilize their own vehicles in the course of their duties must have permission from the Department Director or designee.
- C. Employees who utilize their own vehicle in the course of their duties will not be covered under the City of Staunton's vehicle insurance policy.
- D. Employees using their personal vehicles for City of Staunton business, including traveling to seminars, are required to have the minimum amount of insurance coverage established by Code

of Virginia § 46.2-472. An employee's personal insurance will be responsible for paying claims resulting from accidents when the employee uses a personal vehicle for City of Staunton business.

It is the responsibility of the employee to notify their personal insurance company of use of their vehicle for business purposes.

Employees in Essential driving positions

- A. Employees in essential driving positions are required to report changes in their driving record as a result of a conviction to their supervisor immediately. Failure to report convictions may result in disciplinary action, up to and including termination of employment.
- B. Employees in essential driving positions must complete, at their own expense, a certified driver improvement course when their driving record has accumulated eight or more penalty points (-3).
- C. For positions where driving a City vehicle is an essential task, suspension or revocation of driver's license may result in disciplinary action, up to and including termination.
- D. Applicants may not be appointed to essential driving positions if their driving record has accumulated eight or more penalty points (-3).

Employees in Non-Essential driving positions

- A. For positions where driving a vehicle is a non-essential task of the position, an employee whose driver's license is suspended or revoked should be prohibited from operating a City vehicle.
- B. Employees in non-essential driving positions who have DMV point balances of (-3) or worse will not be allowed to drive a City vehicle.
- C. Employees in non-essential driving positions who voluntarily take a driver improvement course to improve their DMV point balance must notify Human Resources before their right to drive a City vehicle is restored.
- D. If upon completion of the driver improvement course the employee's point balance is better than (-3), they will be allowed to drive a City vehicle.

Reference:

Code of VA §46.2-1094 B

Code of VA §46.2-472

8.3 HAZARD COMMUNICATION STANDARDS

Each Department Director shall ensure employees have received training on federal regulations relating to hazardous materials. At a minimum, the training shall include:

- A. an overview of the requirements contained in Hazard Communications Standards,
- B. chemicals present in the work place operations,
- C. the location and availability of the City's Hazard Communication Standard Safety Data Sheets (SDS),
- D. safety emergency procedures to follow if employees are exposed to hazardous chemicals, and
- E. how to read labels and review SDSs to obtain appropriate hazard information.

8.4 CONFINED SPACE PROGRAM

Each Department Director shall ensure employees have received training regarding requirements for confined space entry, work and egress to prevent personal injury, illness, or property damage. No employee shall be permitted to enter a confined space until an entry permit and pre-entry orientation is conducted.

9.1 GRIEVANCE PROCEDURE

General Provisions

The City encourages employees and supervisors to resolve issues informally whenever possible, because most matters can be resolved through direct and open discussion and, sometimes, compromise. However, if agreement cannot be reached, the City's grievance procedure is designed to provide a formal structure and method of communication between the supervisor/management and the employee to resolve work-related disputes that may arise within an employee's work environment. The purposes of this procedure include:

- To provide employees with a formal method for having work-related complaints considered promptly, fairly and without retaliation.
- To encourage employees to express themselves about significant work conditions that affect or are perceived to affect them as employees.
- To assure employees that personnel actions will follow fair and uniform policies and procedures.
- To increase the supervisor's sense of responsibility in directly dealing with employees.

Any supervisor or other management official who retaliates against an employee for filing a complaint or grievance may be subject to strict disciplinary action, up to and including termination.

Coverage of Personnel. Unless otherwise provided by law, all continuous full-time and part-time City employees who have completed the initial period of employment or initial period of re-employment, are eligible to file grievances with the following exceptions:

- A. Elected officials, constitutional officers and deputies/employees of a constitutional officer.
- B. Department and division directors who report to the City Manager or designee.
- C. Officials and employees who, by charter or other law, serve at the will or pleasure of City Council.
- D. Temporary, limited term and seasonal employees.
- E. Law enforcement officers as defined in the Code of Virginia who have elected to proceed pursuant to Chapter 5 of Title 9.1 of the Code of Virginia.
- F. Any employee who has been placed back into an initial period of employment or re-employment.

Management Rights/Non-grievable Issues.

The City has the exclusive authority and right to organize and manage its human and material resources and operations in order to provide efficient and effective services to its residents. Nothing in this procedure is intended to restrict or change or compromise the following management rights, so long as they are not exercised in an arbitrary and/or capricious manner contrary to applicable law:

- A. Establishment and revision of wages or salaries, position classification, or general benefits.

- B. Work activity accepted by the employee as a condition of employment or work activity which may reasonably be expected by management to be a part of the job content.
- C. The content of ordinances, statutes or established personnel policies, procedures, rules and regulations including law and policy established by City Council.
- D. Failure to promote except when the employee can show that established promotional policies or procedures were not substantially followed or applied fairly.
- E. The methods, means, operations and personnel by which work activities are to be carried on, including performance-related review and evaluation.
- F. The hiring, evaluation, promotion, transfer, assignment, reassignment and retention of employees within the City.
- G. The relief of employees from duties of the City in emergencies.
- H. Measurement and assessment of work activity through performance review and evaluation.
- I. Termination, layoff, reassignment, modification of duties, or demotion or suspension from duties because of lack of work, reduction in work force or job abolition, except, however, when such action affects an employee who has been reinstated within the previous six months as the result of the final determination of a grievance. In any grievance brought under this exception, the action shall be upheld upon a showing by the City that:
 - i. there was a valid business reason for the action, as determined in the sole discretion of management; and
 - ii. the employee was notified of the reason in writing prior to the effective date of the action.

Grievable Issues or Disputes

- A. A grievance is a complaint or dispute by an employee relating to their employment, including but not necessarily limited to:
 - Disciplinary actions, including written reprimands, dismissals, disciplinary demotions and suspensions, provided that a dismissal shall be grievable only when resulting from formal discipline or unsatisfactory job performance.
 - The application of personnel policies, procedures, rules and regulations.
 - Acts of retaliation as the result of the use of the grievance procedure or participation as a witness in the grievance of another employee.
 - Discrimination on the basis of protected characteristics
 - Sexual harassment.

Acts of retaliation because the employee has complied with any law of the United States or of Virginia, has reported any violation of such law to a governmental authority or has sought any change in law before the national or state legislative bodies, or has reported an incidence of fraud, abuse or gross mismanagement.
- B. In addition, the establishment of this procedure shall in no way remove the right of the City government to do the following:
 - i. Direct the work of its employees;
 - ii. Hire, promote, transfer and assign employees;
 - iii. Maintain the efficiency of governmental operations;
 - iv. Relieve employees from duty because of lack of work, reduction in force or job abolition;
 - v. Take actions necessary to carry out the duties of the department in emergencies;
 - vi. Determine the methods, means and personnel necessary to carry out operations.

Grievability

Decisions regarding grievability and access to the procedure shall be made by the City Manager or designee, at any time prior to the final hearing, at the request of the department director or grievant, within 10 calendar days of the request. Request for a determination of grievability shall be made on Grievance Procedure Form G (Determination on of Grievability). The City Attorney or Commonwealth's Attorney shall not be authorized to decide the question of grievability. Once submitted, the issue must be resolved before further processing of the grievance. A copy of the ruling shall be sent to both parties.

Within 10 calendar days after the date of the grievability determination, the grievant may appeal the City Manager's, or designee's, decision to the Staunton Circuit Court for a hearing on the issue of grievability. The grievant must initiate such an appeal by filing a notice of appeal with the City Manager, or designee, providing a copy to all other parties, and must set forth the reasons, in detail, why the grievant believes the grievance presents a grievable matter.

Within 10 calendar days after filing of the notice of appeal, the City Manager, or designee, shall transmit to the Clerk of the Circuit Court a copy of the decision, a copy of the notice of appeal, and the remainder of the record of proceedings, including any exhibits. A copy of the transmittal shall be provided to the grievant and to any other parties. The failure of the City Manager, or designee, to transmit the record within the time allowed shall not prejudice the rights of the grievant or the City. The Circuit Court, on motion of the grievant, may issue a writ of certiorari requiring the City Manager, or designee, to transmit the record on or before a certain date should the record not have been transmitted within the prescribed period of time.

Within 30 calendar days of receipt of such records, the Circuit Court, sitting without a jury, shall hear the appeal on the record transmitted by the City Manager, or designee, 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 required as to such record. The Court may affirm the decision of the City Manager, or designee, or may reverse or modify the decision. The decision of the Court shall be rendered no later than 15 calendar days from the date of the conclusion of the hearing, and shall be final and not appealable.

The classification of a complaint as non-grievable shall not be construed to restrict any employee's right to seek, or management's right to provide, customary administrative review or informal consideration of complaints outside the scope of the grievance procedure or pursuant to any other applicable law or regulation.

CONSOLIDATION OF GRIEVANCE

If more than one grievance is filed arising from the same factual circumstances, the City Manager may, at any time prior to a hearing officer hearing, consolidate those grievances for joint processing, including grievability determinations. If consolidation occurs, all time limit set forth in this procedure shall thereafter be calculated from the date of the last filed grievance. Once consolidated, the grievances shall proceed as a single matter pursuant to this procedure.

HUMAN RESOURCES DEPARTMENT RESPONSIBILITIES

The Human Resources Department (“Human Resources”) shall serve as an administrative information resource for the process.

PROCEDURE AND COMPLIANCE

General Provisions

- A. The City encourages and supports the use of mediation when it may be constructive. The employee, the supervisor/manager or other management official may request the parties enter into professional mediation to resolve an issue. If mediation is agreed to by all parties, Human Resources will arrange for mediation services, with the reasonable cost of services paid by the City.
- B. Step 1 shall provide for an informal, initial processing of employee complaints by the immediate supervisor through a non-written, discussion format that may include the Chief Human Resources Officer or designee.
- C. All stages of the grievance beyond Step 1 shall be in writing on forms supplied by Human Resources.
- D. Personal face-to-face meetings are required at all steps, which may include electronic video meetings on platforms such as Zoom, Webex, or Facetime or other electronic communications sufficient to at least have contemporaneous audio exchanges.
- E. Once an employee reduces the grievance to writing, the employee must detail the specific relief expected through use of this procedure.
- F. With the exception of Step 3, the only persons who may be present in Step 1 and Step 2 meetings are the grievant, the appropriate City official(s) at the level at which the grievance is being heard, and the appropriate witnesses for each side. Witnesses shall be present only while actually providing testimony.
- G. At final management Step 3, the grievant may have present a representative. If the Grievant is represented by legal counsel, the City has the option of being represented by counsel. If the Grievant representative is not legal counsel, the City may not have legal counsel present but may have a non-legal representative.
- H. Recording of meetings will not be permitted.
- I. The grievant shall bear any and all costs involved in employing representation and preparing the grievant’s case at all steps of this procedure, including but not limited to attorneys’ fees and expenses and any costs of judicial filing or appeals.

Compliance

- A. After the formal filing of a written grievance, failure of either party to comply with all substantial procedural requirements without just cause shall result in a decision in favor of the other party.
- B. After receipt of written notification by the other party of an alleged compliance violation, the non-compliant party must correct the non-compliance within five workdays.
- C. Such written notification by the grievant shall be made to the City Manager, or designee, who shall determine whether the alleged noncompliance has occurred and whether such noncompliance is substantial and without just cause.

- D. Compliance determination made by the City Manager, or designee, shall be subject to judicial review by filing a petition with the Circuit Court within 30 calendar days of the compliance determination.

Extension of Time Periods. The time periods prescribed in this procedure constitute substantial procedural requirements. However, such time periods may be extended by mutual agreement between the grievant and the appropriate supervisor or manager as of the particular step in the procedure.

Time Limits. Consecutive calendar day periods referred to throughout this policy will consist of all weekdays and weekend days, to include all leave days, holidays, and unauthorized absent time from work.

Waiver of Steps. Any of the steps in this procedure, except the Step 4 panel hearing, may be waived based upon the mutual written agreement of the grievant and the City Manager, or designee. The request to waive any steps of the grievance process must be completed on the “Employee Grievance Form” Part A and must be signed by the grievant and the City Manager, or designee, prior to the required meeting(s) between the grievant and supervisor or manager. Such signed form will remain a part of the official grievance file maintained in Human Resources.

EXCEPTIONS TO FOUR-STEP PROCEDURE

Employees of the City who wish to file a grievance must follow the step-by-step procedures of the policy, except as follows:

- A. An employee whose immediate supervisory level is below the level which was responsible for the complaint shall initiate and file the grievance with the next level of supervision, using the appropriate step level in the formal process.
- B. Departments and offices which do not have the number of levels of supervision paralleling the supervisory levels, as set forth in the Management/Supervisory Steps below, may omit non-applicable intermediate steps, provided the initial procedure for filing a grievance shall conform to the procedural requirements of the step in which the employee initiates the grievance.
- C. If an employee wishes to by-pass Step 1 and/or Step 2 of the grievance procedure, because the employee believes that step is futile, or it would be in the interest of economy, then the employee must request in writing and the employee and the City must mutually agree in writing to by-pass the step(s) and directly proceed to the next step available.

MANAGEMENT/SUPERVISORY STEPS

Step 1 (Immediate Supervisor) – Any grievance must be presented orally to the immediate supervisor within 21 calendar days after the occurrence or condition that caused the grievance. Within 7 calendar days of such verbal meeting, the supervisor shall give a response to the employee with respect to the grievance.

If a satisfactory resolution is not reached after the verbal meeting, the employee shall reduce the grievance to writing and file it as prescribed in Step 2.

Step 2 (Department Director) – At Step 2, the grievance must be filed with the Department Director within 7 calendar days of the receipt by the employee of the immediate supervisor’s Step 1 reply. Using the grievance forms provided, the grievant must identify and detail the nature of the grievance

and the expected remedy. The Department Director shall meet with the employee within 7 calendar days, and render a written reply to the grievance within seven calendar days following such meeting.

Step 3 (City Manager, or designee) - If a satisfactory resolution is not reached at Step 2, the employee may submit the grievance to the City Manager, or designee. At Step 3, the grievance must be filed with the City Manager within 7 calendar days of the receipt by the employee of the Step 2 written reply by the Department Director. The City Manager, or designee, shall meet with the employee within 7 calendar days, and render a written reply to the grievance within seven calendar days following such meeting.

Step 4 (Panel hearing) - If the City Manager's or designee's written reply in Step 3 is not acceptable, the employee may submit the grievance to Step 4, the final step that involves a panel hearing. The request for the panel hearing must be filed by the employee on the appropriate form with the City Manager, or designee, within 7 calendar days of receipt by the employee of the Step 3 written reply by the City Manager, or designee.

PANEL HEARING

Within 7 calendar days of receipt by the City Manager, or designee, of the request for a panel hearing, the City Manager, or designee, shall notify in writing all parties concerned that an impartial panel will be formed to hear the grievance and direct the parties to select the panel pursuant to the following provisions.

Selection of Panel

- A. From a list of individuals who are designated to serve on a panel, which list shall be maintained and may be amended by the Chief Human Resources Officer, the panel shall be formed and consist of one member appointed by the grievant and one member appointed by the City Manager, or designee, within seven calendar days of the request, and a third member selected by the first two within 14 calendar days of the selection of the last of the two so selected. The third member shall be the chairperson of the panel.
- B. With each party's selection of a panel member, that member's name, address, telephone number and email address shall be furnished in writing to the other party and to the Chief Human Resources Officer, who shall endeavor to cause the two to meet for the selection of the third member so as to accomplish the timely selection.
- C. In the event that an agreement cannot be reached as to the final panel member, the chief judge of Staunton Circuit Court shall select the third panel member from the maintained list.
- D. The panel shall not be composed of any persons having direct involvement with the grievance, or with the complaint or dispute giving rise to the grievance.
- E. Persons residing in the same household as the grievant and any relative of a participant in the grievance process are prohibited from serving as panel members.
- F. 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.
- G. Panels chosen in compliance with these requirements shall be deemed to be impartial.
- H. The chairperson of a panel will receive a stipend of \$300.00/per day while the two panel members will receive \$200.00/per day including any day for reasonable and necessary travel, preparation, and post-hearing deliberations.

Prior to the Hearing:

- A. The panel hearing shall be held as soon as practicable, within the mutual consent of all parties, after the panel has been selected. The panel hearing may be conducted by electronic video meetings on platforms such as Zoom, Webex, or Facetime or other electronic communications sufficient to at least have contemporaneous audio exchanges.
- B. Panel hearing members should familiarize themselves with the grievance procedure and grievance booklet or other document containing the grievance procedure, which has been routinely provided by the Chief Human Resources Officer to grievants and department directors. Through the Chair, they should contact the Chief Human Resources Officer with any initial questions.
- C. Documents, exhibits, and lists of witnesses shall be exchanged between the parties in advance of the hearing. The City shall provide the panel with copies of the grievance record prior to the hearing; and provide the grievant with a list of the documents furnished to the panel. The grievant and his attorney, at least 10 calendar days prior to the scheduled panel hearing, shall be allowed access to and copies of all relevant files intended to be used in the grievance proceeding. The parties shall exchange copies of all documents and other exhibits and lists of witnesses. The grievant, as the “moving” party shall submit his/her documents, other exhibits, and lists of witnesses to the locality representative at least ten (10) days prior to the hearing. The locality representative shall submit their documents, other exhibits and list of witnesses three (3) working days after the grievant submits his/her documents, exhibits and witness list. The parties shall have sufficient copies to present to the panel hearing board at the hearing.
- D. 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.
- E. Panel hearing members should recall that panels do not have the authority to formulate policies or procedures or to alter existing policies or procedures. The panel hearing board will make its decision by a majority vote, with an indication in writing as to how each member voted and the reasons for the decision. If the vote is not unanimous, a dissenting member should indicate the reasons for the dissent in writing as well.
- F. Panel hearing members will want to ensure their availability for attendance at the hearing and any follow-up discussion so that the grievance can be heard and decided in a speedy manner.
- G. Panels have the discretion to determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing, and, at the request of either party, the hearing shall be private.
- H. Panel hearing members may wish to discuss the process they plan to use and how they will deal with specific issues such as procedural questions, etc., prior to the hearing.
- I. Panels have 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.
- J. All evidence shall be presented in the presence of the panel and the parties, except by mutual consent of the parties.
- K. The panel hearing is not intended to be conducted like a proceeding in court and shall be conducted substantially in accordance with the procedures described in subsection “Procedures at the Hearing.”
- L. The question of whether the relief granted by a panel is consistent with written policy shall be determined solely by the City Manager, or designee, unless such person 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’s Attorney for the City of Staunton.
- M. The majority decision of the panel, acting within the scope of its authority and in accordance with this procedure and law, is final, subject to existing policies, procedures and law.

- N. The panel decision shall be made in writing and provided to the City Manager, or designee, and to the grievant within 21 calendar days after completion of the hearing.
- O. Either party may petition the Staunton Circuit Court for an order requiring implementation of the panel decision.

Procedures at the Hearing:

- A. The Panel Hearing Board Chair (“Chair”) convenes the hearing and introduces the other members of the Panel Hearing Board. Also, the Chair will have all parties present introduce themselves for the record because the hearing will be taped and/or transcribed by the Chief Human Resources Officer. The City will incur the cost of the recording; a request for a transcription will be paid by the requesting party.
- B. The Chair will state the purpose of the hearing is to hear the grievance submitted by (name of grievant).
- C. The Chair will identify for the parties the procedure that the Panel Hearing Board plans to use for the hearing. The Chair should refer to the grievance procedure or the booklet or other document containing the grievance procedure which may have been routinely provided by the Chief Human Resources Officer to grievants and department directors.
- D. At any time a question arises regarding the procedural issues, the Chair may call a short break and speak with the other two panel members. Together, the Panel Hearing Board will decide what action it desires to take regarding the question presented. (Generally, these issues involve documents or testimony which may or may not be relevant to the grievance. The Panel Hearing Board has the authority to determine the admissibility of evidence without regard to the burden of proof, the order of presentation of evidence, or the rules of evidence, so long as full and equal opportunity is afforded to all parties for the presentation of their evidence.)
- E. The Chair will inform both sides that each will be permitted a specific time for presentation of opening remarks and their position regarding the grievance. It may be helpful to ask each side how much time they will need and then have both parties adhere to the agreed times.
- F. The grievant or the grievant’s counsel will proceed with their presentation first. The representative of the City will follow with their presentation.

All evidence will be presented in the presence of the panel and the parties except by mutual consent of the parties.

- G. Both sides will be given the right to rebut the comments made by each other and any witnesses they wish to present. If the interchanges of comments become heated, the Chair may tell the parties that all questions will be directed to the Chair who will in turn ask the question or the Chair may announce this at the beginning of the hearing in reviewing procedures. This generally calms all parties, and restores order to the hearing.
- H. Each side may present witnesses and exhibits for the Panel Hearing Board to consider. Generally, witnesses and exhibits are presented.
- I. At the conclusion of all testimony, comments and presentation of exhibits, the Chair should ask if the parties wish to make summary and closing comments; most will provide comments. After that, the Chair should ask if anyone has anything else to provide to the Panel Hearing Board.
- J. The Chair will state that the Panel Hearing Board will meet and make a final decision on this grievance within 21 days of the hearing. The Chair will then officially close the hearing.

Reference:
Staunton City Charter §11;
VA Code §§15.2-1500 and 15.2-1506;

