

**CITY OF HUNTSVILLE
PERSONNEL POLICIES AND PROCEDURES
MANUAL**

UPDATED
May 2016

**CITY OF HUNTSVILLE
PERSONNEL POLICIES AND PROCEDURES MANUAL**

TABLE OF CONTENTS

SECTION 1: OBJECTIVES AND APPLICABILITY

1.1	General Policy.....	1
1.2	Basic Purpose and Objectives.....	1
1.3	Departmental Rules and Regulations	2
1.4	Applicability of Policies	2
1.5	Interpretation of Policies	2
1.6	Amendments.....	2
1.7	Conflict of Laws.....	2
1.8	Computation of Time.....	3
1.9	Effective Date of this Policy	3

SECTION 2: RESPONSIBILITY FOR PERSONNEL ADMINISTRATION

2.1	Management Rights.....	5
2.2	Level of Responsibility.....	5

SECTION 3: PERSONNEL POLICY STATEMENTS

3.1	General Personnel Policy	9
3.2	Equal Employment Opportunity	10
3.3	Harassment Policy	11

SECTION 4: RECRUITMENT AND EXAMINATION

4.1	Policy	15
4.2	Job Interest Cards	16
4.3	Applications and Acceptability.....	16
4.4	Rejection of Applicant	16
4.5	Examination	17
4.6	Character Examination	17

SECTION 5: APPOINTMENT

5.1	Appointment Policy	19
5.2	Age Requirements	19
5.3	Residence Requirements	19
5.4	Immigration Reform and Control Act	19
5.5	Medical and/or Psychological Examination.....	19
5.6	Employment of Relatives	20
5.7	Appointment Status	21

SECTION 6: PROBATIONARY PERIOD FOR NEW EMPLOYEES

6.1	Purpose of Probationary Period	23
6.2	Duration of Probationary Period	23
6.3	Disciplinary Actions During the Probationary Period	23

SECTION 7: CLASSIFICATION PLAN

7.1 Purpose and Use of Classification Plan 25
7.2 Contents of the Plan 25
7.3 Exempt/Non-Exempt Status of Employee 26
7.4 Maintaining the Plan 26
7.5 Classification Appeal 26

SECTION 8: SALARY ADMINISTRATION

8.1 Compensation Plan 29
8.2 Appointment Rate 29
8.3 Salary Range for Department Heads and Other Appointed Officials...30
8.4 Salary Rate Upon Placement in a Position of Higher Grade 30
8.5 Salary Rate Upon Placement in a Position of Lower Grade 31
8.6 Salary Rate Upon Special Assignment 32
8.7 General Salary Increases 32
8.8 Hourly Rate of Pay 33
8.9 Part-Time Rates 33
8.10 Exempt and Non-Exempt Employees 33
8.11 Overtime Policy 33
8.12 Compensatory Time Policy 34
8.13 Holiday Pay 35
8.14 On-Call Provisions 36
8.15 Call-Out Provisions 37
8.16 Working Out of Classification 37
8.17 Hazardous Duty Injury Pay 38
8.18 Separation Pay 38
8.19 Longevity Pay 38
8.20 Reduction in Pay 39
8.21 Appointed Employee Pay 39
8.22 Pay Procedures 39

SECTION 9: PROMOTION, DEMOTION, TRANSFER

9.1 Promotional Policy 41
9.2 Promotional Probation 41
9.3 Promotional Procedures 41
9.4 Demotion/Reclassification to a Lower Graded Position 42
9.5 Transfer 44

SECTION 10: WORKING HOURS, ATTENDANCE, AND LEAVE

10.1 Workweek 47
10.2 Time Reporting 47
10.3 Attendance 47
10.4 Absenteeism 47
10.5 Authorized Leave 47
10.6 Annual Leave 48
10.7 Sick Leave 49
10.8 Family and Medical Leave 50
10.9 Holiday Leave 62
10.10 Compensatory Leave 63
10.11 Administrative Leave 64

10.12	Leave of Absence	64
10.13	Leave Without Pay Excused	65
10.14	Leave Without Pay Unexcused.....	65
10.15	Industrial Injury Leave	65
10.16	Supplemental Leave to Workers' Compensation	65
10.17	Military Leave	66
10.18	Bereavement Leave	66
10.19	Jury/Witness Duty	66
10.20	Leave for Formal City Hearing or City Investigative Review	67
10.21	Miscellaneous Leave (Hazardous Weather/ Emergency Conditions)	67
10.22	Voluntary Leave Transfer Program.....	71
10.23	Sick Leave Bank	75
10.24	Conversion of Leave Time for Fire Suppression Personnel	78
10.25	Examinations	78

SECTION 11: PERFORMANCE EVALUATION

11.1	Policy	79
11.2	Responsibilities	79
11.3	Types of Performance Reviews.....	79
11.4	Evaluation Process.....	80
11.5	Notification of Unacceptable Performance	81
11.6	Unacceptable Evaluation	81

SECTION 12: SEPARATION

12.1	Resignation	83
12.2	Retirement.....	83
12.3	Dismissal.....	83
12.4	Maximum Job Absence.....	83
12.5	Reduction in Force or Position Abolishment.....	84

SECTION 13: CONDUCT AND DISCIPLINARY POLICY

13.1	Employee Conduct	87
13.2	Corrective Action	87
13.3	Employee and Supervisor Responsibilities.....	87
13.4	Disciplinary Policy	88
13.5	Causes for Disciplinary Action	88
13.6	Types of Disciplinary Action	90
13.7	Hearing Officer Responsibilities	98
13.8	Request for Reconsideration	98
13.9	Employee Representation During Departmental Hearing	98
13.10	Administrative Procedure	98

SECTION 14: GRIEVANCE POLICY AND PROCEDURE

14.1	Grievance Policy	103
14.2	Grievance Procedure	104
14.3	Additional Procedural Matters	114
14.4	Employee Presence	116
14.5	Employee Testimony	117
14.6	Use of City Resources to Prepare for Grievances	117

14.7	Personnel Committee	117
14.8	Pendency of Certain Personnel Action During the Grievance Process	117
14.9	Retaliation or Reprisal	118
14.10	Harassment	118

SECTION 15: SAFETY

15.1	Safety Policy	119
15.2	Safety Inspections	119
15.3	Accident Investigations	120
15.4	Condemnation of Equip. or Material Due to Unsafe Conditions	120
15.5	Safety Incentive Awards Program	120

SECTION 16: TRAINING AND DEVELOPMENT

16.1	Training Policy	125
16.2	Selecting Employees for Training	125
16.3	Procedures for Requesting Approval of Training	125
16.4	Training Through Local Government Facilities	126
16.5	Training Through Educational Institutions, Associations, and Private Enterprise	126
16.6	Expenditure of Funds for Conferences/Seminars	126
16.7	Expenditures of Funds for Continuing Educational Programs	127
16.8	Responsibilities	128

SECTION 17: PERSONNEL RECORDS OF CITY EMPLOYEES

17.1	Maintenance and Retention of Records	131
17.2	Official Employee Personnel Folder	131
17.3	Employee Medical Records and Health Information	131

SECTION 18: DRUG AND ALCOHOL POLICIES

18.1	Drug-Free Workplace Act Statement and Policy	133
18.2	Drug and Alcohol Testing as Required by the Federal Transit Administration (FTA) and by the <i>Federal Motor Carrier Safety Administration (FMCSA)</i>	134
18.3	City of Huntsville's Drug and Alcohol Policy for All Employees	156

SECTION 19: EMPLOYEE ASSISTANCE PROGRAM

19.1	General Overview	165
19.2	Referral Procedures	166
19.3	Problem Assessment/Evaluation	168
19.4	Education and Training	169
19.5	Confidentiality	169
19.6	Disciplinary Actions	170
19.7	Costs	170
19.8	Inquiries	170

SECTION 20: SMOKING POLICY

20.1	Purpose	171
20.2	Policy	171

20.3	Definitions	171
20.4	Responsibility of Employees	171
20.5	Discipline	172
20.6	Assistance for Tobacco Users	172
20.7	Retaliation Prohibited.....	172

SECTION 21: RESERVED

SECTION 22: MISCELLANEOUS POLICIES

22.1	Outside Employment (Including Self-Employment).....	175
22.2	Procedures and Standards Relating to City-Owned Information Technology Equipment	176
22.3	Employee Incentive Awards Program	181
22.4	Use of City Vehicles	183
22.5	Loss of Driving Privilege	183
22.6	Use of Personal Vehicle	184
22.7	Clothing Allowance.....	184
22.8	State Ethics Requirements	185
22.9	Privileged, Confidential, Proprietary, or Otherwise Restricted Information	185
22.10	Workplace Searches	185
22.11	Work Release	186
22.12	Political Activity	186
22.13	Longevity Banquet	188
22.14	Conference and Travel.....	188
22.15	Early Retirement Incentive.....	192
22.16	Leadership Development Program.....	193

(THIS PAGE INTENTIONALLY LEFT BLANK)

**CITY OF HUNTSVILLE
PERSONNEL POLICIES AND PROCEDURES MANUAL**

SECTION 1

OBJECTIVES AND APPLICABILITY

1.1 GENERAL POLICY

It is the policy of the City of Huntsville to promote, support, implement, and maintain a program for coordinated development of municipal services and facilities. High quality services are mandatory for the health, safety, and welfare of the citizens of the City of Huntsville. The ability of the City to provide high quality services to its citizens is dependent on the employees of the City performing at a consistently high professional level. Therefore, employees of the City of Huntsville are expected to do their best in their work assignments, to be regular in their attendance on the job, and to respect the rules, regulations, and policies of the City of Huntsville.

1.2 BASIC PURPOSE AND OBJECTIVES

The purpose of these personnel policies is to bring into the City of Huntsville's municipal government the high degree of understanding, cooperation, unity, and efficiency which comes through systematic application of sound personnel administration policies, administered uniformly for all employees. The policies set forth herein promote equal employment opportunities for all qualified individuals, provide fairness and impartiality in all personnel matters, promote the morale and well being of City of Huntsville employees, and promote the efficiency and economy of the municipal government.

These personnel policies are based on the following principles:

- (A) To establish procedures, which will serve as guidelines for administrative action, concerning the various personnel activities, benefits, and services available to employees of the City of Huntsville;
- (B) To assure fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, age, disability, or religious creed, and with proper regard for their privacy and constitutional rights as citizens;
- (C) To recruit, select, and advance employees on the basis of aptitude, knowledge, skills, abilities, and professional characteristics;
- (D) To provide equitable and adequate compensation and benefits;
- (E) To train employees, as needed, to assure high quality performance;
- (F) To assure the adequacy of performance and conduct of employees; and,
- (G) To promote and increase efficiency and economy in the municipal government.

1.3 DEPARTMENTAL RULES AND REGULATIONS

The policies as stated herein provide guidelines for all personnel of the City of Huntsville; however, they do not include all policies, procedures, rules, or regulations that may be necessary at an operational level. Therefore, when necessary to enhance efficiency and effectiveness at the operational level, departmental policies and procedures may be supplemented. However, no such departmental policy, procedure, rule, or regulation shall be in conflict with these basic policies.

1.4 APPLICABILITY OF POLICIES

These policies shall apply to all employees of the City of Huntsville, unless otherwise provided for by exception. These policies shall serve as a guide for the administration of the personnel system of the City of Huntsville. These policies may not be all inclusive; however, final discretion as to interpretation or the appropriate course of action regarding a particular personnel matter shall be that of the Director of Human Resources and the Mayor of the City of Huntsville.

1.5 INTERPRETATION OF POLICIES

The Director of Human Resources shall be responsible for providing interpretation of these policies when there is internal conflict between such policies or when questions arise regarding the application of these policies to specific situations or procedures.

The Director of Human Resources may, as necessary, issue written policy explanations relating to the interpretation or application of these policies and procedures.

Department Heads shall ensure dissemination and compliance with all policy statements.

1.6 AMENDMENTS

Occasionally, changes are required in the operation of City government, due to federal, state, and/or local legislature, operational changes within the local government, or by other prevailing influence. Therefore, the City of Huntsville reserves the right to modify, alter, revoke, suspend, terminate, discontinue, or change any language in this handbook, in whole or in part, as necessary.

1.7 CONFLICT OF LAWS

Where any portion of a City of Huntsville Code or Ordinance shall conflict with the provisions of this handbook, or any amendment to this handbook, the provision more specifically addressing the particular situation shall apply.

Where any portion of this handbook, or amendment of this handbook, shall conflict with a federal or state law, such federal or state law shall apply.

1.8 COMPUTATION OF TIME

In computing any period of time provided in this handbook, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or other legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

1.9 EFFECTIVE DATE OF THIS POLICY

This policy, including, but not limited to, the procedures contained herein, is effective upon adoption and supersedes all such prior policies. Any subsequent amendments to this policy shall be effective upon adoption or as otherwise specified therein.

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 2

RESPONSIBILITY FOR PERSONNEL ADMINISTRATION

2.1 MANAGEMENT RIGHTS

There are certain matters that are solely functions of management, including, but not limited to, the following:

- (A) The right to direct the work force;
- (B) The right to select and determine the number and types of employees required;
- (C) The right to determine the content of position class specifications;
- (D) The right to hire, transfer, promote, demote, suspend, discipline, and separate employees;
- (E) The right to assign work to employees in accordance with the requirements determined by the City;
- (F) The right to establish and change work schedules and assignments;
- (G) The right to expand or diminish services;
- (H) The right to establish and change methods of operations;
- (I) The right to determine and change work locations and the processes and/or materials to be employed;
- (J) The right to determine and change the means, methods, and personnel by which work activities are undertaken;
- (K) The right to request, with sufficient documented job-related reasons, a fitness for duty evaluation; and,
- (L) The right to take all necessary actions to perform its functions in emergencies or otherwise, when deemed in best interest of the City.

2.2 LEVEL OF RESPONSIBILITY

- (A) City Council

The City Council shall, by ordinance, resolution, or motion, declare the personnel policies of the City of Huntsville.

- (B) Mayor

The Mayor, as Chief Executive Officer of the City of Huntsville, shall see that all personnel policies are impartially and equitably administered by establishing administrative policies and procedures necessary to implement, administer, and enforce the authorized personnel policies.

(C) Director of Human Resources

The Director of Human Resources shall be delegated the responsibility of establishing and administering all approved personnel policies and procedures for the overall administration of the personnel system.

(D) Department Heads

Department Heads shall have the following responsibilities, subject to the approval of the Director of Human Resources and the Mayor:

- (1) Selecting, retaining, transferring, promoting, and separating employees within the department;
- (2) Ensuring that employees of the department are knowledgeable of the provisions of these policies and adhere to such;
- (3) Ensuring that employees of the department are informed when any provision of these rules affect the terms and conditions of their employment; and,
- (4) Carrying out the duties and responsibilities provided within the personnel policies and procedures and related departmental rules, regulations, and procedures.

(E) Supervisory Personnel

It shall be the responsibility of all supervisory personnel to be knowledgeable of and to properly support and administer fairly and equitably to all employees the policies of the City of Huntsville stated herein and hereafter adopted. Furthermore, it is the responsibility of supervisory personnel to keep all employees cognizant of all policies, rules, and regulations and to assist employees in understanding the policies, rules, and regulations; thereby ensuring that the objectives of the policies are achieved.

A supervisor is defined as "an employee who supervises at least one (1) regular, full-time employee, and, on fairly frequent occasions, additional part-time or temporary employees, such that two (2) or more employees are supervised for a total of 80 (eighty) hours during a one (1) week work period." Supervisory functions include, without limitation, assigning and directing work; appraising productivity and efficiency; administering or recommending discipline, hiring, promotion, reassignment, pay adjustment, and other status changes; and providing for safety of personnel and property.

(F) Employees

Regardless of any superior's responsibility for making an employee aware of applicable policies, it is ultimately the responsibility of all employees to acquaint themselves thoroughly with all personnel policies and procedures, departmental rules, regulations, and procedures and any subsequent revisions. An employee will be held accountable for his/her lack of awareness, knowledge, or understanding regarding the foregoing and a lack of awareness, knowledge, or understanding shall not be an excuse for violate or nonconforming conduct. If an employee has a question about any personnel

policy or procedure, or any departmental rule, regulation or procedure, or any subsequent revisions thereto, it is his/her responsibility to seek guidance and obtain a definitive answer from supervisory personnel before engaging in potentially violate or nonconforming conduct.

Employees are encouraged to submit suggestions for changes and improvements in personnel policies and procedures for improvement of the City of Huntsville personnel administration.

(G) City Attorney's Office

The City Attorney's Office shall provide advice and assistance, in whatever form deemed appropriate, to the various departments of the City in carrying out the personnel policies and procedures and related departmental rules, regulations, and procedures. In addition, with respect to any grievance, disciplinary proceeding, or other proceeding provided herein, Department Heads may consult and/or obtain representation from the City Attorney's Office as necessary and shall consult and/or obtain representation from the City Attorney's Office in all cases where the possibility of future litigation exists.

Employees who are served with a subpoena to appear in any court of law due to their employment with the City of Huntsville or due to their performance of duties for the City of Huntsville shall immediately forward a copy of the subpoena to the City Attorney through the employee's chain of command. Also, employees who are served with a subpoena to produce in any court of law records belonging to the City of Huntsville shall immediately forward a copy of the subpoena to the City Attorney through the employee's chain of command.

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 3

PERSONNEL POLICY STATEMENTS

3.1 GENERAL PERSONNEL POLICY

In conjunction and compliance with established principles of equal opportunity and affirmative action, it shall be the practice of the City of Huntsville, through efforts of the Department of Human Resources, to apply modern business principles and procedures to operate efficiently and economically a sound program consisting of, but not limited to, the following areas of personnel management:

(A) Recruitment, Selection, and Placement

It shall be the practice of the City of Huntsville to:

- (1) Make efforts to promote community awareness for career opportunities by properly advertising such opportunities when appropriate within the community;
- (2) Fill all vacancies in accordance with job qualifications and requirements without discrimination as to race, sex, color, age, creed, national origin, disability, or lawful political affiliation; and,
- (3) Establish a program based upon merit principles for the selection, retention, promotion, transfer, demotion, and reassignment of personnel.

(B) Position Classification and Pay Administration

It shall be the practice of the City of Huntsville to:

- (1) Prepare and maintain an adequate classification specification for each position which shall be prepared as soon as reasonably practicable after the creation of any new position;
- (2) Establish appropriate job standards and evaluate each position to determine the proper grade level;
- (3) Conduct wage and salary surveys, preferably at four (4) year intervals, in order to maintain competitive wage and salary scales; and,
- (4) Maintain a formalized compensation plan to provide for systematic salary progression for high quality performance.

(C) Employee Relations

It shall be the practice of the City of Huntsville to:

- (1) Administer a system of evaluation to inform each employee periodically and systematically of the status of his/her performance on the job;
- (2) Provide employees with rules, regulations, and guidelines relative to appraisal of job performance;

- (3) Develop and administer a leave program on a uniform and equitable basis;
- (4) Provide employee benefits and services in keeping with general community practices;
- (5) Provide an employee grievance and appeal procedure;
- (6) Provide employees due process for all disciplinary matters;
- (7) Provide for the safety and well-being of all employees; and,
- (8) Establish a system of communication to inform employees of their responsibilities, rights, and privileges derived from employment.

(D) Employee Development and Training

It shall be the practice of the City of Huntsville to:

- (1) Develop a well-trained work force;
- (2) Assist employees in achieving their highest potential and usefulness;
- (3) Provide opportunities to all employees for advancement; and,
- (4) Motivate and stimulate employees to a high degree of participation.

(E) Records

It shall be the practice of the City of Huntsville to:

- (1) Maintain accurate and current personnel records; and,
- (2) Provide employees access to their official personnel records on file in the Department of Human Resources.

3.2 EQUAL EMPLOYMENT OPPORTUNITY

The City of Huntsville recognizes that, as a public body, it is responsible for the general well being of its residents. As one of the major employers in Madison County, this responsibility extends to providing job opportunities and employment.

The City of Huntsville shall take necessary and affirmative action to eliminate equal opportunity barriers and to prohibit discrimination and/or preferred treatment concerning any individual on the basis of political or religious affiliations; on the basis of race, creed, color, disability, national origin, sex, or age (except where age or physical requirements constitute a bona fide occupational qualification necessary for proper and efficient functioning in the job); and, on the basis of any other non-merit factor.

Equal employment opportunity, free of discriminatory practices, shall be enforced in all facets of employment including, but not limited to, recruitment,

appointment, testing, promotion, terms and conditions of employment, compensation, benefits, training, discipline, appeals, layoffs, and terminations.

It shall be the practice of the City of Huntsville, through the efforts of the Department of Human Resources, to apply modern management principles and procedures to operate, efficiently and economically, a sound human resources management program.

The Director of Human Resources and the Equal Employment Officer shall share responsibility for the distribution and discussion of this equal employment opportunity policy with Department Heads, Division Managers, supervisors, and other employees, to assure understanding and reasonable and consistent application.

Department Heads and Division Managers shall conduct personnel management operations in accordance with this equal employment opportunity policy.

Department Heads and Division Managers shall provide employees and applicants alleging discrimination accessibility to those who can respond to and assist the individual, in order to ensure that their rights are not violated and to decrease the necessity to seek assistance through outside investigating agencies.

3.3 HARASSMENT POLICY

It is the policy of the City of Huntsville to provide a work environment free from all forms of harassment. The City of Huntsville does not tolerate harassment of employees and others based on, or related to, sex, race, color, national origin, religion, age, or disability. This policy applies to the actions of Department Heads, Division Managers, supervisors, co-workers, independent contractors, and any other individual who comes into contact with an employee while an employee is performing his/her job duties. Department Heads, Division Managers, supervisors, and employees who violate this policy are subject to severe discipline, including termination of employment.

Retaliation against individuals who report harassment is strictly forbidden. Any Department Head, Division Manager, supervisor, or other employee who is found to have taken any adverse action against an individual because of the individual's good-faith report or complaint of harassment is subject to severe discipline, including termination of employment. This may apply even if it is determined that the harassment report or complaint is not valid.

(A) Harassment

A course of conduct directed at a specific person or a specific group of people that causes substantial emotional distress in such person or group of people and serves no legitimate purposes.

(B) Sexual Harassment

(1) Sexual Harassment may take the form of an unwelcome act of a sexual nature by individuals of the same sex or opposite sex. Specifically, sexual harassment is defined as unwelcome sexual advances, requests for sexual

favors, or verbal or physical conduct of a sexual nature when any of the following occurs:

(a) Submission to such conduct is made a term or condition of an individual's continued employment, promotion, or other condition of employment. This may occur by clearly-stated acts or words, or implied acts or words;

(b) Submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee or job applicant; or,

(c) Such conduct is intended to interfere or results in interference with an employee's work performance, or creates an intimidating, hostile, or offensive work environment.

(2) Prohibited sexual harassment may include, but is not limited to: sexual innuendoes; sexual propositions; jokes of a sexual nature; sexually suggestive cartoons; suggestive or insulting sounds; leers, sexually-related whistles; and, obscene gestures. In addition, pinching, brushing against another person's body and subtle pressure for sexual favors is considered harassment.

(3) No supervisor shall threaten or insinuate, either by explicit or implied action(s), that an employee's refusal to submit to sexual advances will adversely affect the employee's employment, evaluation, classification (grade or step), assigned duties, or any other condition of employment or career development.

(C) Race, Color, Religion, National Origin, Age, and Disability Harassment

(1) Race, color, religion, national origin, age, and disability harassment is defined as unwelcome statements, name-calling, or other verbal or physical conduct based upon an employee's race, color, religion, national origin, age, or disability when any of the following occurs:

(a) Submission to such conduct is made a term or condition of an individual's continued employment, promotion, or other condition of employment;

(b) Submission to or rejection of such conduct is used as a basis for employment decisions affecting an employee or job applicant; or,

(c) Such conduct is intended to interfere or results in interference with an employee's work performance, or creates an intimidating, hostile, or offensive work environment.

(2) Prohibited actions include, but are not limited to: use of derogatory terms or descriptions of an individual or group of individuals based on race, color, religion, national origin, age, or disability; stating stereotypical classifications concerning the race, color, religion, national origin, age, or disability, of any employee or group of employees; display of signs, pictures, cartoons, written statements or other material that denigrates or discriminates against any employee(s) based on one's race, color, religion, national origin, age, or disability; and, general harassment, pushing,

shoving, or other intentional acts perpetrated in whole, or in part, because of the employee's race, color, religion, national origin, age, or disability.

(D) Harassing conduct in the workplace, whether committed by supervisors or non-supervisory personnel is prohibited. For the purposes of Section 13 of this Policy, the workplace shall include any place where an employee of the City of Huntsville is required to perform his/her official duties of employment. Employees, while on duty, are specifically prohibited from engaging in harassing behavior, as defined in this Section 3.3, towards other employees, officials, or private citizens.

(E) Any employee or other person, who believes he/she has been a victim of harassment, as defined herein, should bring the alleged act to the attention of the immediate supervisor, the Equal Employment Officer, and/or the Director of Human Resources. In addition, any employee or other person who observes acts of harassment by another City employee should bring the alleged act to the attention of the immediate supervisor, the Equal Employment Officer, and/or the Director of Human Resources. A supervisor to whom an alleged act of harassment is reported shall immediately contact the Human Resources Director.

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 4

RECRUITMENT AND EXAMINATION

4.1 POLICY (ORD. 10-922)

To assure a high quality of service to the public, the Director of Human Resources shall make every effort to attract qualified and competent individuals to compete for positions with the City of Huntsville. Recruitment efforts and publicity will be directed to appropriate sources to attract qualified candidates to be considered for appointment on the basis of abilities and potential. Selection and appointment to all positions shall be based solely upon job-related requirements and the applicant's demonstration of possession of the knowledge, skills, abilities, and personal characteristics necessary for successful job performance.

The Department of Human Resources and the Equal Employment Officer shall develop and administer a centralized system of recruiting applicants. Recruitment programs shall be conducted in such manners and for such time periods as determined to be useful and expedient for the class involved.

Official vacancy announcements shall be prepared and released by the Department of Human Resources for all regular, full-time vacancies; except a vacancy to be filled by an employee within the same department where such vacancy exists, a vacancy to be filled by an employee who is being reclassified, or a vacancy to be filled pursuant to a state or federal law.

Public notices shall be given for all regular, full-time vacancies, except those vacancies to be filled by intra-city transfer or promotion of current City employees, by properly advertising such vacancies within the community. Such notice shall be distributed to various education and training centers, as well as other organizations, agencies, institutions, and services that may reasonably provide sources of personnel. The methods of advertising will depend upon the nature and requirements of the position being filled. The following methods are typical of those which may be used for recruitment: posting notices on bulletin boards, radio and TV public service announcements, advertising in professional journals and newspapers, recording announcements on the City's job line, advertising on the Internet, and listing the job with the State Employment Service.

The term for advertising vacancies shall be two (2) weeks, unless a longer period is requested by the Department Head. Announcements, containing pertinent information about the vacancy, shall be sent to the appropriate department(s). Each Department Head is responsible for ensuring that the announcements are posted in such places as are known by and available to all employees of the department.

Notices of promotional vacancies may be limited to circulate only within an organizational unit of the City, may include competition from all organizational units in the City, or may be circulated to the general public.

4.2 JOB INTEREST CARDS

Individuals desiring employment with the City of Huntsville when no vacancy exists shall be allowed to complete a Job Interest Card. Such card shall indicate the individual's desire for employment and the occupation being sought. When a vacancy, subject to public notice, occurs and recruitment efforts are initiated, the Department of Human Resources will notify the individual to submit the proper application. The Human Resources Department shall keep a Job Interest Card on file for no more than three (3) years.

4.3 APPLICATIONS AND ACCEPTABILITY

Consideration will be given to all individuals who meet the required minimum qualifications and who file application on the prescribed forms before the closing date for filing such application. Applicants must submit all necessary forms required to the Department of Human Resources. Claims made by applicants relative to education, experience, or other required qualifications shall be subject to verification.

4.4 REJECTION OF APPLICANT

An applicant may be rejected and/or refused further consideration, examination, or appointment for any of the following reasons:

(A) Applicant is found to lack any of the minimum qualifications established for the job classification;

(B) Failure of an applicant to submit an application according to established procedures or within a prescribed time period;

(C) Failure of an applicant to complete application according to instructions; failure to submit required documents or additional information; or, failure to submit a legible, comprehensible application;

(D) Applicant has made a false statement or has otherwise practiced deception or fraud in connection with his/her application for employment;

(E) Applicant has attempted to use, or has used, unauthorized aids, cheated, or otherwise attempted to secure an undue advantage on any examination;

(F) The application submitted is for a job class for which applications are not being accepted at that time;

(G) Applicant has failed to appear for a scheduled examination;

(H) Applicant has failed to pass any phase of the examination process;

(I) Applicant is found to be physically or mentally unable to perform, with or without a reasonable accommodation, the essential functions of the job classification for which the individual has applied;

(J) Applicant has been discharged for just cause or previously resigned from the City of Huntsville under unfavorable circumstances;

(K) Applicant has been found to have a record of unsatisfactory performance on previous jobs;

(L) Applicant is currently addicted to or otherwise a current user of narcotics or the excessive use of intoxicating liquors or other substances in a manner which would affect the ability to safely, dependably, or effectively perform the essential functions of the job classification;

(M) Applicant has been convicted of a crime or has a record of convictions, the nature of which would affect the individual's suitability for employment in the job classification; or,

(N) Applicant has used or attempted to use political or personal pressure or bribery to secure an advantage in obtaining employment.

4.5 EXAMINATION

An applicant having the required minimum qualifications and who properly made application shall be eligible to compete for vacancies requiring competitive examinations. Each applicant whose application has been accepted for an examination shall be notified as to the time, date, and place of such examination. Any applicant prohibited from participating in the examination process shall be notified as to the reason for disqualification.

Competitive promotional examinations may be limited to eligible employees of the organizational unit, may be open to eligible employees of all organizational units in the City service, or may include the general public. Competitive promotional examinations shall be administered in accordance with promotional guidelines established for the job classification.

4.6 CHARACTER EXAMINATION

Examinations shall measure aptitude and/or knowledge, skills, abilities, and personal characteristics required for successful performance in the job classification involved. The Department of Human Resources may use such instruments, forms, and materials as determined necessary in examining, as may be appropriate for the job classification, including one or a combination of any of the following:

(A) A written examination which shall include a written demonstration of each competitor's aptitude and/or knowledge and skills in the field for which the test is being held and which may include standard tests of mental alertness and of general educational attainments;

(B) An oral examination which may be used in lieu of, or to supplement, a written examination, or to obtain information regarding the abilities of the competitor that is not readily obtained in a written examination. Such oral examination may include performance tests or demonstration of skills or leadership;

(C) A physical or mental condition examination which may be either competitive or qualifying, and which shall consist of a test of bodily condition, muscular strength, agility, coordination, mental stability, and intelligence;

(D) An interview which shall appraise each competitor's interpersonal skills for the position, such as the ability to get along well with people and other personal and temperamental qualifications;

(E) A practical assessment which shall include tests of performance to determine the ability, manual skills, and leadership of each competitor to perform the work involved and which may be either competitive or qualifying; and/or,

(F) An evaluation of education, training, and/or experience which shall be based upon information in the applicant's resume and/or application, evaluation forms, and such other data as may be secured through the interview or from other sources, which may be subject to investigation as to truth and completeness.

SECTION 5

APPOINTMENT

5.1 APPOINTMENT POLICY

Appointments to all tenured positions within the City of Huntsville shall be solely on the basis of merit, without regard to race, creed, color, religion, national origin, lawful political affiliation, sex, age, or disability (except where age or physical or mental ability is an essential bona fide occupational qualification), or other non-merit factors. When an employee's qualifications are regarded as equal to or higher than outside applicants, the employee shall be given the preference.

With the exception of those administrative officers that are appointed by the Mayor, all appointments shall be made by the Department Head. Prior to making an appointment that requires public notice, the Department Head shall receive the approval of the City Council to fill the vacancy.

5.2 AGE REQUIREMENTS

The minimum age for employment with the City of Huntsville shall be eighteen (18) years of age, except in specific situations where a regulation governs the age requirements for a particular classification. The minimum age for employment of seasonal or certain part-time employees shall be sixteen (16) years of age, except in specific situations where a regulation governs the age requirements.

5.3 RESIDENCE REQUIREMENTS

There is no residence requirement for employees of the City of Huntsville.

5.4 IMMIGRATION REFORM AND CONTROL ACT

All new employees, regardless of employment status, are required by the Immigration Reform and Control Act of 1986 to complete a government form I-9 before, or immediately following, employment. This form attests to the individuals' eligibility for employment in the United States. Certain documents, which will prove an individual's eligibility for employment in the United States, must be presented to the person processing the employment papers. Each newly hired employee must present either an original document which establishes both employment authorization and identity or an original document which establishes employment authorization and a separate original document which establishes identity. Establishing and maintaining eligibility for employment in the United States is a condition of employment.

5.5 MEDICAL AND/OR PSYCHOLOGICAL EXAMINATION

No applicant, except applicants for certain temporary seasonal positions, shall be employed in a position without certification by the proper examining medical authority that the applicant meets the minimum standards of physical and/or mental fitness required for the position. For some job classifications, drug testing and psychological examinations shall be required. All physical and mental examinations shall be scheduled by the Department of Human

Resources and paid for by the City. The Director of Human Resources shall review any certification with restrictions for determination of acceptable standards. In the event such restrictions cast doubt upon suitability for employment, the applicant may, at his/her own expense, produce medical evidence to support the applicant's contention of suitability. Such medical evidence substituted shall be considered, but shall not be binding on the City of Huntsville to offer employment.

5.6 EMPLOYMENT OF RELATIVES

(A) Definition: "Relative," whether plural or singular, shall include the following degrees of kinship:

- (1) Parent, step-parent or parent-in-law;
- (2) Spouse;
- (3) Child or step-child; daughter-in-law, son-in-law;
- (4) Brother, brother-in-law, step-brother;
- (5) Sister, sister-in-law, step-sister;
- (6) Grandparent, grandparent-in-law, step-grandparent;
- (7) Grandchild, grandchild-in-law, step-grandchild;
- (8) Aunt or uncle; and,
- (9) Niece or nephew.

Any person falling within the category of "relative" by reason of adoption shall be treated the same as if such relationship occurred naturally.

(B) No two (2) or more "relatives" shall be permitted to work in any same department of the City, if the two (2) or more "relatives" would be subject to the supervision of the same supervisor within two (2) levels of supervision. This prohibition may be waived where it is determined in writing by the Director of Human Resources, with the concurrence of the Mayor, that waiver of such provision would best serve the interests of the City of Huntsville.

(C) No two (2) or more "relatives" shall be permitted to work in any same department of the City if the two (2) or more "relatives" would be in any positions within two (2) levels of supervising and being supervised by one another.

(D) No "relatives" shall be eligible for hiring, transfer, or promotion under any circumstance which would result in any violation of paragraphs "B" or "C" above.

(E) In the event that any two (2) employees of the City elect to be married and to thereby come within the definition of "relatives", then to avoid any resultant conflict with the provisions of this policy, one or both employees may transfer to any non-conflicting vacant position which is advertised to be filled, if such employee is considered the best qualified applicant for such vacant position. If such transfer is not approved, then one of the employees so desiring to marry must forfeit his/her employment with the City.

5.7 APPOINTMENT STATUS (ORD. 13-967)

The appointment status of any employee shall be for the purpose of classifying the employment in accordance with the anticipated length of employment, working hours, or other special employment conditions.

(A) Regular, Full-Time

A regular, full-time employee is hired on a regular, full-time basis upon completion of a one (1) year probationary period in accordance with Section 6 of the Personnel Policies and Procedures manual. Upon satisfactory completion of the one (1) year probationary period, such employee is subject to the regulations concerning termination for cause in accordance with Section 13 of the Personnel Policies and Procedures manual and retirement upon eligibility. Employment continues during good behavior and is subject to necessity for the work.

The workweek for a regular, full-time employee shall average fifty-six (56) hours per week for fire suppression personnel and forty (40) hours per week for all other employees.

This employee is entitled to all normal fringe benefits, such as accrual of paid vacation and paid sick leave, and overtime/compensatory time, as appropriate.

(B) (1) Regular, Part-Time

A regular, part-time employee is hired for an indefinite period of time to work less than thirty (30) hours per week. The regular, part-time employee is eligible for sick leave, holiday pay, and retirement benefits.

This regular, part-time employee is not eligible for paid vacation or other benefits. Also, this regular, part-time employee is not typically expected to work overtime.

Regular, part-time employees required to work on a holiday, should have such holiday deferred, and be authorized to take said holiday off on another day. This employee should be authorized one (1) hour for each hour worked, or each hour that he/she normally would have been scheduled to work, on the day recognized as a holiday, not to exceed the value of the holiday.

(B) (2) Regular, Part-Time Plus the Federal Affordable Care Act (ACA)

A regular, part-time plus ACA employee is hired for an indefinite period of time to work at least thirty (30) hours but less than forty (40) hours per week. The regular, part-time plus ACA employee is eligible for sick leave, holiday pay, retirement benefits and the benefit(s) entitled under the ACA.

This regular, part-time plus ACA employee is not eligible for paid vacation or other benefits. Also, this regular, part-time plus ACA employee is not typically expected to work overtime.

Regular, part-time plus ACA employees required to work on a holiday, should have such holiday deferred, and be authorized to take said holiday off on another day. This employee should be authorized one (1) hour for each hour worked, or each hour that he/she normally would have been scheduled to work, on the day recognized as a holiday, not to exceed the value of the holiday.

(C) Temporary, Full-Time Plus the Federal Affordable Care Act (ACA)

A temporary, full-time plus ACA employee is hired for a limited period of time, not to exceed one (1) year, for the performance of specific tasks. The employee is expected to work a full workweek.

This temporary, full-time plus ACA employee is eligible to receive overtime and/or holiday pay, if authorized for regular, full-time employees in similar job categories. This temporary, full-time plus ACA employee is also eligible for the benefit(s) entitled under the ACA. A temporary, full-time plus ACA employee is not eligible for paid vacation, paid sick leave or other benefits. Full-time summer employees are included in this category.

(D) (1) Temporary, Part-Time

A temporary, part-time employee is hired for a limited period of time, not to exceed one (1) year, for the performance of specific tasks. The employee is expected to work less than thirty (30) hours per week. This temporary, part-time employee is not eligible for paid vacation, sick leave, holiday pay, or other benefits. Also, this temporary, part-time employee is not typically expected to work overtime. Part-time summer employees are included in this category.

(D) (2) Temporary, Part-Time Plus the Federal Affordable Care Act (ACA)

A temporary, part-time plus ACA employee is hired for a limited period of time, not to exceed one (1) year, for the performance of specific tasks. The employee is expected to work at least thirty (30) hours but less than forty (40) hours per week. The employee is eligible for the benefit(s) entitled under the ACA. This temporary, part-time plus ACA employee is not eligible for paid vacation, sick leave, holiday pay, or other benefits. Also, this temporary, part-time plus ACA employee is not typically expected to work overtime. Part-time summer employees are included in this category.

(E) (1) Special

A special employee is engaged by the City through authorization by the Mayor, City Council, and/or municipal ordinance.

(E) (2) Special Plus the Federal Affordable Care Act (ACA)

A special Plus ACA employee is engaged by the City through authorization by the Mayor, City Council, and/or municipal ordinance and upon meeting certain hours threshold, at least thirty (30) hours per week, will be eligible for the benefit(s) entitled under the ACA.

SECTION 6

PROBATIONARY PERIOD FOR NEW EMPLOYEES

6.1 PURPOSE OF PROBATIONARY PERIOD

The probationary period is an integral part of the selection procedure allowing the supervisor and the Department Head to train, observe, and evaluate an employee's skills, conduct, and attitude, in order to determine fitness for permanent status in the position.

6.2 DURATION OF PROBATIONARY PERIOD

Each new employee hired to fill an authorized regular, full-time position shall be required to complete a probationary period to enable the Department Head to observe the employee's ability to perform the various duties of the position. The probationary period for an employee hired to fill a regular, full-time position shall begin immediately upon hire in such position and continue for one (1) year.

6.3 DISCIPLINARY ACTIONS DURING THE PROBATIONARY PERIOD

(A) Reprimand

A probationary employee may be reprimanded for cause by the Department Head (or his/her designee) at any time during the probationary period, with no right of review from such action.

(B) Suspension, Demotion, or Termination

A probationary employee may be suspended for cause by the Department Head without a formal disciplinary hearing, with no right of review from such action; and, a probationary employee may be demoted or terminated for cause by the Department Head, subject to the approval of the Mayor and the Director of Human Resources, without a formal disciplinary hearing, with no right of review from such action. Such employee is entitled to notice and an informal hearing before the Department Head or other designated official.

(1) Notice of Hearing. An employee shall be given advance written notice of a hearing before the Department Head, or other designated official, which shall include the date of the hearing, the grounds for the proposed disciplinary action, and a statement that the employee shall be allowed, during the hearing, to present evidence in his/her defense. A copy of the notice shall be filed with the Department of Human Resources for placement in the employee's personnel file.

(2) Hearing. The hearing shall be conducted informally before the Department Head or other designated official at the time and place designated in the notice. The employee's response may be oral or in writing. If the employee presents a written response, a copy of such shall be filed in the Department of Human Resources for placement in the employee's personnel file. Should the employee elect to waive the right to a hearing, such waiver shall be in writing and signed by the employee.

During the hearing, the employee is permitted to have a licensed attorney and/or a consultant present and to confer with such licensed attorney and/or consultant. However, the employee's licensed attorney and/or consultant will not be permitted to participate directly in the proceedings.

(3) Notice of suspension, demotion, or termination. The notice of suspension, demotion, or termination should be in writing, dated, and delivered to the employee. The notice should contain:

- (a) The nature of action;
- (b) The specific grounds for the action taken; and,
- (c) The effective date of the action taken.

The Department Head shall report promptly, in writing, to the Director of Human Resources any such action taken against a probationary employee. A copy of the disciplinary notice shall be filed with the Department of Human Resources and placed in the employee's personnel file.

SECTION 7

CLASSIFICATION PLAN

7.1 PURPOSE AND USE OF CLASSIFICATION PLAN

The position classification plan provides a systematic arrangement and inventory of the positions in City government. The plan groups the various positions into classes according to the ranges of duties, responsibilities, and level of work performed.

7.2 CONTENTS OF THE PLAN

The classification plan shall consist of:

(A) A grouping of positions into classes so that each position in a class:

- (1) Requires basically the same training, experience, and/or education;
- (2) Can be filled by substantially the same methods of selection; and,
- (3) Is of relative value and, therefore, deserves the same salary range.

(B) The class title of a position shall be used to designate such position in all budget estimates, payrolls, and other official records, documents, vouchers, and communications in connection with all personnel processes; provided, however, that any other title desired by departmental officials may be used to designate any position for the purpose of internal departmental administration; and,

(C) A written description for each job classification (classification specification) containing examples of typical tasks found in the class, essential functions of the job classification, an indication if the job classification is considered to be safety-sensitive, requirements of the class setting forth the minimum necessary knowledge, training, abilities, and experience, and any special qualifications necessary for entrance into the class.

(1) Class specifications are descriptive and explanatory and are not restrictive. They are designed to indicate the kind of positions that should be allocated to a class as determined by the duties and/or responsibilities. The use of an individual expression or illustration as to duties or responsibilities shall not be regarded as excluding assignments of other duties not mentioned which are of similar kind or quality.

(2) In determining the class to which any position shall be allocated, the specification for each class shall be considered as a whole and construed as a general description of the kinds of work and characteristics of positions which shall be allocated to the class, and not as limiting the authority to prescribe or alter the duties of any position.

(3) Minimum qualifications are comprehensive statements of the minimum background as to education, experience, and other qualifications that will be required in all cases as evidence of an employee's ability to perform the work properly.

7.3 EXEMPT/NON-EXEMPT STATUS OF EMPLOYEE

(Also See Section 8.10 Exempt and Non-Exempt Employees)

Each job classification shall be designated as being exempt or non-exempt for purposes of eligibility for certain benefits, privileges, and rights as defined in the appropriate policies. The Department of Human Resources shall designate the appropriate exemption status for the job classification, after considering such factors and guidelines as:

- (A) The Fair Labor Standards Act and the U. S. Department of Labor guidelines;
- (B) The City's policies and practices;
- (C) The degree of supervision exercised;
- (D) The level of participation in policy making; and,
- (E) The performance of specialized and technical work requiring specialized training, experience, and knowledge.

7.4 MAINTAINING THE PLAN

The Director of Human Resources shall be responsible for the continuous maintenance and administration of the classification plan. This shall include:

- (A) Assignment of classification titles to every position in the City's service;
- (B) Preparation and maintenance of class specifications of every position in the City's service;
- (C) Evaluation and assignment of each position to its proper classification in the approved classification plan;
- (D) Performance of periodic wage and salary surveys of prevailing rate of pay for similar public and private employment in the area; and,
- (E) Establishment of records reflecting such data and information necessary for the administration and maintenance of the classification and pay plan.

7.5 CLASSIFICATION APPEAL

(A) An employee who believes the class to which his/her position is assigned is incorrect may request a review of the classification of the position, if Human Resources has not conducted a position classification audit within the preceding twelve (12) month period. However, if the employee has been assigned new duties and responsibilities commensurate with a position in a higher grade as a result of an organizational change deemed appropriate for the efficient and effective operation of municipal government within the twelve (12) month period after the position classification audit was conducted, the employee may request a review of his/her position classification.

Such a request must be submitted in writing to the Department Head and must contain a statement of justification, including those duties or responsibilities claimed to justify reclassification.

(B) Upon an employee's submission of a request or at the Department Head's own initiative, a Department Head may request classification reviews of positions within his/her departments. Department Heads may not make requests for classification reviews of positions that have received classification audits within the preceding twelve (12) month period, unless an employee has been assigned new duties and responsibilities commensurate with a position in a higher grade as a result of an organizational change deemed appropriate for the efficient and effective operation of municipal government. If one (1) or more positions are proposed to be modified as a result of a proposed change of duties or responsibilities, the Department Head shall consult with the Human Resources Director who shall review the proposal as provided in these policies.

(C) Upon receipt of a classification review request, the Director of Human Resources will obtain all necessary information and, after consideration of all pertinent facts, will submit a recommendation to the Mayor who will make a disposition of the review.

(D) An employee may file a grievance based upon job classification under Section 14.1(A)(1) in the following circumstances only:

(1) The Director of Human Resources has recommended that the classification of the employee's position be upgraded on the basis of the duties and responsibilities performed by the employee and the Mayor has disposed of the review by indicating that he/she will not recommend to the City Council an upgrade of the employee's position;

(2) The Director of Human Resources has recommended that the classification of the employee's position be downgraded on the basis of the duties and responsibilities performed by the employee and the Mayor has disposed of the review by indicating that he/she will recommend to the City Council that the employee's position be downgraded;

(3) The Mayor has indicated that he/she will recommend to the City Council that the classification of an employee's position be downgraded as a result of a classification review conducted under this Section 7.5 with regard to a like-classed employee; or,

(4) The Department Head has not submitted the employee's request for classification review to the Director of Human Resources within the thirty (30) day period following the Department Head's receipt of such request.

Without regard to the foregoing, an employee who has requested a review of the classification of his/her position on the basis of the duties or responsibilities performed by the employee shall not have the right to file a grievance to contest the removal or reassignment (whether by the Department Head or the Mayor) of those duties or responsibilities claimed to (in the case of a grievance sought to be filed under Section 7.5(D)(4) above) or found to justify reclassification of the position.

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 8

SALARY ADMINISTRATION

8.1 COMPENSATION PLAN

The Director of Human Resources shall be responsible for the development and maintenance of a uniform and equitable pay plan which shall consist, for each class of positions, of minimum and maximum rates of pay and such intermediate steps as deemed necessary and equitable, subject to approval by the City Council.

Factors relevant to the maintenance of sound compensation practices will include: ranges of pay in other classes; prevailing rates of pay for similar employment in both public and private organizations; cost of living factors; other benefits received by employees; the financial policy and economic consideration of the City; regulatory laws; and, the ability of the City to recruit and retain qualified personnel.

8.2 APPOINTMENT RATE (ORD. 06-593) (ORD. 08-776) (ORD. 15-530)

(A) Upon initial appointment, the entrance rate of new hires shall normally be the minimum rate of the salary grade for the position classification involved. However, the Mayor with City Council approval may authorize an initial entrance rate above the minimum rate in the following instances:

(1) When an applicant for a position may have qualifications distinctly above and beyond the minimum qualifications required for the position classification; or

(2) When recruiting efforts have failed to fill a position at the minimum rate. In cases of inability to recruit new hires at the minimum rate, any current employees in positions of the same class and grade, within the same department, and with the same or substantially similar qualifications and experience as the new hire, whose rates are below the rate established as the entrance rate for the new hire shall have their rates adjusted to the rate at which the position is finally filled.

(B) Individuals hired for the position of Police Officer who have three (3) or more years of continuous full time Alabama Peace Officers' Standards and Training Commission (APOSTC) certified law enforcement experience shall be hired at above the minimum rate.

Those individuals hired for the position of Police Officer who are not APOSTC certified police officers shall be eligible for hire at above the minimum rate provided they meet the following conditions:

(1) Currently employed police officers must have three or more years of continuous, sworn full time civilian law enforcement experience and must possess a current and valid Peace Officers Standards and Training certificate from the state the applicant received training and that certificate must be in good standing; or,

(2) Previously employed police officers who were continuously employed as a sworn full time civilian law enforcement officer with three (3) or more years of certified law enforcement experience must have less than two (2) years break in service at time of new hire and their law enforcement certification must have been in good standing with the certifying agency at the time of separation.

(3) All non APOSTC certified lateral applicants must further comply with APOSTC rule 650- X- 4-.03.

These individuals with three (3) years but less than five (5) years APOSTC certified law enforcement experience or other state certified law enforcement experience (as previously described) shall be hired at one (1) step above the minimum rate. Such individuals with five (5) to seven (7) years APOSTC certified law enforcement experience or other state certified law enforcement experience (as previously described) shall be hired at two (2) steps above the minimum rate. Such individuals with more than seven (7) years APOSTC certified law enforcement experience or other state certified law enforcement experience (as previously described) shall be hired at three (3) steps above the minimum rate.

(C) Individuals hired for the position classification of Firefighter who have three (3) or more years of paid professional Firefighter experience and who are currently certified or certifiable as a professional Firefighter, level one, by the Alabama State Personnel and Standards Commission shall be hired at above the minimum rate.

These individuals with three (3) years but less than five (5) years paid professional Firefighter experience and currently certified or certifiable (as previously described) shall be hired at one (1) step above the minimum rate. Such individuals with five (5) to seven (7) years paid professional Firefighter experience and currently certified or certifiable (as previously described) shall be hired at two (2) steps above the minimum rate. Such individuals with more than seven (7) years paid professional Firefighter experience and currently certified or certifiable (as previously described) shall be hired at three (3) steps above the minimum rate.

8.3 SALARY RANGE FOR DEPARTMENT HEADS AND OTHER APPOINTED OFFICIALS

The salary grade and range for Department Heads and other appointed officials shall be established and authorized by the City Council; provided, however, the Mayor may appoint a Department Head or other appointed official above the minimum range within the established grade with approval of the City Council.

8.4 SALARY RATE UPON PLACEMENT IN A POSITION OF HIGHER GRADE (ORD. 10-922) (ORD. 11-257)

A) Upon placement or promotion of an employee to a position of higher grade in a class in an occupational related area, the new rate shall be the minimum rate of the new salary range or the first step within the higher grade which is at least three percent (3%) above the former rate, whichever is higher.

(B) Upon placement or promotion of an employee to a position in an equal or higher grade in a class of an unrelated occupational area, the new rate shall normally be the minimum rate of the new salary range. However, should an employee possess exceptional knowledge, skills, and abilities required for the position, or should the employee have gained significant related experience in the position while an employee of the City, the employee may be eligible for consideration for a rate of pay higher than the minimum rate of the new range, subject to the approval of the City Council.

(C) For placements or promotions in accordance with Sections 8.4(A) and 8.4(B), a regular, full-time employee's anniversary date will remain unchanged. In the event the employee is moving from part-time to regular, full-time, the anniversary date shall be based upon the date the employee becomes a regular, full-time employee.

(D) For the purpose of application of this Section 8.4, the minimum rate shall be the lowest rate shown in the salary schedule in the range for the class involved; and, the maximum rate shall be the highest rate shown in the salary schedule in the range for the class involved.

8.5 SALARY RATE UPON PLACEMENT IN A POSITION OF LOWER GRADE (ORD. 10-922) (ORD. 11-257)

(A) If demoted for cause, the rate of pay in the lower range shall be set by the disciplinary authority in consideration of the cause, but in no case shall be higher than the maximum rate of the lower range.

(B) If an employee is placed in a lower graded position (through no fault of his/her own) as a result of a job reclassification action or reduction in force, the employee shall retain his/her current rate of pay for a period of two (2) years, subject to the requirements of Section 9.4 of this policy, unless or until the employee is promoted or the maximum rate of the employee's new salary range is increased sufficiently to provide further increase.

(C) For an employee demoted upon request, the rate shall be determined after considering the length of service in the higher class, prior positions held, and the reasons for requesting the demotion, but in no event shall the rate exceed the maximum rate of the new position.

(D) For an employee accommodated for medical reasons to a position of lower grade, the rate shall be determined after considering the length of service in the higher class and prior positions held. With the approval of the Director of Human Resources, the employee's rate may exceed the maximum rate of the new position.

(E) For demotions or placements in a position of lower grade in accordance with Sections 8.5(A), 8.5(B), 8.5(C) and 8.4(D), the employee's anniversary date will remain unchanged.

8.6 SALARY RATE UPON SPECIAL ASSIGNMENT (ORD. 05-455)

(A) Sworn Police personnel and Police personnel assigned to the 911 Center, while serving at the direction of the Chief of Police in a special assignment capacity as determined by the Chief of Police, shall receive a five percent (5%) higher rate of pay than the established rate of pay for the employee(s) concerned.

(B) Fire and Rescue fire suppression personnel, while serving at the direction of the Fire and Rescue Chief as a member of the Hazardous Materials Team or in a special assignment capacity to the Fire and Rescue Training Division, or other comparable assignment as determined by the Fire and Rescue Chief, shall receive a five percent (5%) higher rate of pay than the established rate of pay for the employee(s) concerned.

Fire and Rescue personnel assigned to the 911 Center, while serving at the direction of the Fire and Rescue Chief in a special assignment capacity as determined by the Fire and Rescue Chief, shall receive a five percent (5%) higher rate of pay than the established rate of pay for the employee(s) concerned.

8.7 GENERAL SALARY INCREASES (ORD. 10-922) (ORD. 11-257)

(Also See Section 11 PERFORMANCE EVALUATION)

(A) Progression

The pay plan is designed to provide for progressive step increases to employees as a reward for continual growth and development in their career, thereby increasing their value to the City.

Upon request by the Department Head or Division Manager, eligible full-time employees shall be authorized the progressive increase of one step, effective on the employee's established anniversary date (employment date, date of regular, full-time status, or other date established by Ordinance). However, progression within an established range shall not be automatic, but shall require certification by the Department Head or Division Manager that the employee is performing at a satisfactory level of competence.

An employee who is not considered eligible for a progressive step increase due to failure to perform at a satisfactory level of competence, as indicated by the Department Head, Division Manager, or supervisor during the annual performance evaluation, shall not receive the progressive increase nor be eligible for such until a performance evaluation of "satisfactory" or better is rendered. Upon receiving a performance evaluation of "satisfactory" or better, such employee's anniversary date will become the date on which the evaluation of "satisfactory" or better is rendered.

In addition, an employee who is on imposed probation is not eligible for a progressive step increase until such time as the employee has satisfactorily completed the imposed probationary term and has received a performance evaluation of "satisfactory" or better. Upon receiving a performance evaluation of "satisfactory" or better, such employee's anniversary date will become the date on which the evaluation of "satisfactory" or better is rendered.

Authorization for progressive increases is dependent upon appropriation by the City Council.

(B) Cost of Living Adjustments

Cost of living adjustments shall be made to the pay plan and an employee's rate of pay adjusted according to the new wage for the employee's grade and step.

Authorizations for cost of living increases are dependent upon appropriation by the City Council.

8.8 HOURLY RATE OF PAY

Employees having a scheduled workweek of forty (40) hours during seven (7) consecutive calendar days shall have their hourly rate computed by dividing the annual salary by the number of hours scheduled or available to work during the calendar year, this being 2,080 hours. Such hourly rate shall then be paid for all hours worked during the seven (7) day workweek and such rate shall be used for computation of overtime as required and in accordance with the overtime provisions of the Fair Labor Standards Act.

Fire suppression personnel shall have their hourly rate of pay computed by dividing the annual salary by the average number of hours scheduled to work during the calendar year, this being 2,912 hours. Such hourly rate shall then be paid for all hours worked during the established twenty-one (21) day work period and such rate shall be used for computation of overtime as required and in accordance with the overtime provisions of the Fair Labor Standards Act.

8.9 PART-TIME RATES (ORD. 05-158)

An employee who is employed to work less than forty (40) hours per workweek shall be paid at the minimum rate for the full-time classification, or in accordance with the rate of pay authorized by the City Council. If no full-time classification exists, the part-time employee shall be paid in accordance with the rate of pay authorized by the City Council.

8.10 EXEMPT AND NON-EXEMPT EMPLOYEES

(Also See Section 7.3 Exempt/Non-Exempt Status of Employee)

Each job classification shall be designated as being exempt or non-exempt for purposes of eligibility for certain benefits, privileges, and rights as defined in the appropriate policies. The Department of Human Resources shall designate the appropriate exemption status for the job classification.

8.11 OVERTIME POLICY

Work hours in excess of the standard work period shall be authorized only when essential to the effective operation of City government. When overtime is deemed necessary, any employee scheduled and directed to work additional hours shall be required to do so.

All non-exempt employees, except fire suppression personnel, shall be compensated at the rate of one and one-half (1 1/2) times the employee's regular hourly rate of pay for all authorized and approved hours worked in excess of the standard forty (40) hour work period, inclusive of compensable leave. Fire suppression personnel shall be compensated at the rate of one and one-half (1 1/2) times the employee's regular hourly rate for all hours worked in excess of the standard 168 hours within the twenty-one (21) day work period, inclusive of compensable leave. The Fair Labor Standards Act's statutory overtime, (hours actually worked in excess of 159 working hours, yet less than the regular scheduled work period of 168 regular hours), shall be compensated for in accordance with the overtime provisions of the Fair Labor Standards Act, exclusive of leave.

Inclusive of compensable leave shall mean the established work period consisting of all regular hours actually worked and all compensable leave hours taken by the employee. Exclusive of compensable leave shall mean the established work period consisting only of the regular hours actually worked by the employee.

8.12 COMPENSATORY TIME POLICY (ORD-13-145)

(Also See Section 10.10 COMPENSATORY LEAVE)

(A) Non-Exempt Employees

To control excessive overtime costs, compensatory time, with the approval or at the direction of the Department Head, may be accrued by the non-exempt employee. The Department Head shall make an effort to schedule earned compensatory time off during the workweek in which it was earned. Compensatory time earned and taken during the same workweek shall be at the rate of one (1) hour for each hour worked. Compensatory time earned and taken outside the workweek in which it was earned shall be at a rate of one and one-half (1 1/2) times the number of hours worked in excess of the standard work period.

Employees earning compensatory time during any workweek and subsequently taking leave during the same workweek shall be required to use the compensatory time earned during that workweek before compensatory time earned in a prior workweek, or annual or deferred holiday leave can be used.

Non-exempt fire suppression personnel can accrue a maximum of three hundred thirty-six (336) hours of compensatory time. All other non-exempt City employees can accrue a maximum of two hundred forty (240) hours of compensatory time. Once non-exempt employees have accrued the maximum hours of compensatory time allowed herein, such employees shall receive cash overtime payments for additional overtime worked.

(B) Exempt Employees

Exempt employees shall not be authorized overtime compensation, but shall be authorized to accrue compensatory time with the approval or at the direction of the Department Head, at the rate of one hour for each hour worked in excess of the standard work period. The Department Head shall make an effort to schedule earned compensatory time off during the workweek in which it was

earned. However, in the event such time accrues beyond the workweek in which it was earned, all such compensatory time for the previous calendar year must be taken prior to the ending of the last pay period in June of the following year, or shall be forfeited by the exempt employee. The only exception to this compensatory time forfeiture provision is in the event such compensatory time has been earned solely pursuant to Section 10.21(C)(2)(b). However, in the event an exempt employee is denied scheduled compensatory leave by the Department Head or other designated representative for the convenience of the City, or is called back to work while on compensatory leave, resulting in a forfeiture of compensatory leave, the employee shall, upon request and approval of the Mayor, have such compensatory leave reinstated. The use of compensatory time accrued pursuant to Section 10.21(C)(2)(b) shall be governed by the terms of Section 10.21(C)(2)(b) in lieu of this Section 8.12(B).

Upon termination of employment, exempt employees shall be compensated up to a maximum of one hundred and sixty (160) accrued compensatory hours at their regular hourly rate in addition to any compensatory hours accrued pursuant to Section 10.21(C)(2)(b).

(C) Movement from a Non-Exempt to an Exempt Position

Any compensatory time earned while in a non-exempt position is not subject to forfeiture. However, an employee whose job status changes (or has changed) from non-exempt to exempt shall receive monetary compensation for accrued compensatory time earned while in a non-exempt position; thereby, resulting in a zero balance of accrued compensatory time earned while in a non-exempt position.

8.13 HOLIDAY PAY

(Also see Section 10.9 HOLIDAY LEAVE)

The following holidays shall be the official holidays for all full-time employees of the City of Huntsville:

- New Year's Day
- Martin Luther King's Birthday (as nationally observed)
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Day
- Christmas Day

In addition, during each calendar year, three (3) other holidays shall be declared and authorized at the discretion of the Mayor of the City of Huntsville.

As many employees as possible will be allowed off on a recognized holiday. However, certain responsibilities and duties cannot be dispensed with to ensure and maintain efficient operation of City government. All full-time employees required to work on a holiday shall have such holiday deferred and shall be authorized to take said holiday off on another day. The employee shall be authorized one (1) hour for each hour worked on the recognized holiday, not

to exceed the value of the holiday. This provision also applies if such holiday falls on a full-time employee's "off day".

Regular, part-time employees required to work on a holiday, should have such holiday deferred, and be authorized to take said holiday off on another day. The employee should be authorized one (1) hour for each hour worked, or each hour that he/she normally would have been scheduled to work, on the day recognized as a holiday, not to exceed the value of the holiday.

Each holiday shall have a declared value of eight (8) hours for full-time employees having an established eight (8) hour, five (5) day, workweek. For fire suppression personnel having an established twenty-one (21) day work period each holiday shall have a declared value of twenty-four (24) hours per holiday. For other full-time employees working alternate schedules, as approved by the Mayor, each holiday shall receive the value assigned by the Human Resources Director for employees working alternate schedules of that type. In the event of any question regarding the value of a holiday for any individual or class of employees, the Human Resources Director shall make a final determination declaring the value of the holiday.

In the event any of the holidays fall on Saturday or Sunday, the City shall recognize the previous Friday or following Monday as the legal holiday.

To be eligible for the paid holiday or deferred holiday, an employee must be in an active employment status and not on leave without pay unexcused, disciplinary suspension, or unpaid leave of absence (pursuant to the Family Medical Leave Act, Section 10.8 herein, Section 10.12 herein, or as otherwise authorized and approved) on the previous scheduled workday or the next scheduled workday after the holiday. An employee on scheduled, authorized and compensable leave (including paid leave pursuant to the Family Medical Leave Act, Section 10.8 herein) when the holiday is recognized shall be compensated for the holiday in lieu of the use of accrued leave.

As an incentive for employees to take deferred or accrued holiday leave, all holiday time earned during the calendar year must be taken prior to the ending of the last pay period in June of the following year. However, in the event an employee is denied scheduled holiday leave by the Department Head or other designated representative for the convenience of the City, or is called back to work while utilizing holiday leave, resulting in a forfeiture of holiday leave, the employee shall, upon request and approval of the Mayor, have such holiday leave reinstated.

Upon termination of employment, employees shall be compensated up to a maximum of two hundred forty (240) hours of frozen and/or accrued holiday leave, or three hundred thirty-six (336) of frozen and/or accrued holiday leave for fire suppression personnel.

8.14 ON-CALL PROVISIONS

Non-exempt employees who are severely restricted during their off-duty time and in their personal activities, and who are engaged by the City to wait to perform assigned duties, shall be considered in a working status and shall be governed by the compensation policies for hours worked. Employees who are not absolutely restricted during their off-duty time or in their personal activities,

yet who may be required to be available only should their services be required, shall be considered as waiting to be engaged to perform their assigned duties and shall not be entitled to compensation unless such employee is actually engaged to perform such required services.

8.15 CALL-OUT PROVISIONS

Non-exempt employees who are unexpectedly called back to their assignment after normal working hours shall be paid the greater of:

- (A) The equivalent of two (2) regular hours of work; or,
- (B) The actual number of hours worked at the rate of one and one-half (1 1/2) times of the employee's regular rate of pay.

Another call-out is considered to have occurred whenever the employee must leave his/her residence in response to a work call outside normal scheduled working hours. Scheduled overtime and the requirement to report to work early shall not constitute call-out.

8.16 WORKING OUT OF CLASSIFICATION

If a full-time employee, through the direction of the Department Head or Division Manager, is temporarily assigned the responsibility of performing all duties normally performed by another employee in a higher classification, that employee shall, after a reasonable and customary period of training and development (30 workdays, or 15 workdays for fire suppression personnel) within such classification, be entitled to receive additional compensation.

However, in the event the temporary vacancy or absence becomes a permanent vacancy, the Department Head or Division Manager shall consider all qualified and eligible applicants or candidates regardless of any previous or temporary assignment.

(A) Provisions for Temporary Appointment and Compensation

- (1) A temporary vacancy or absence must exist within the department;
- (2) As determined by the Department Head or Division Manager, a temporary out-of-class appointment must be necessary for the efficient operation of the department;
- (3) The Department Head or Division Manager shall have the discretion to designate which full-time employee, if any, shall be assigned and for what duration the employee may serve; and,
- (4) An employee must first have served a reasonable and customary amount of time equal to thirty (30) scheduled working days, or fifteen (15) scheduled working days for fire suppression personnel, within the new classification, in order to be eligible for compensation under this policy.

(B) Method of Compensation

A full-time employee who is temporarily assigned to a higher classification, and who, either continuously or intermittently, serves within that new classification for a period of time in excess of the equivalent of thirty (30) regular working days, or fifteen (15) regular working days for fire suppression personnel, shall thereafter receive compensation equal to the minimum rate of the new salary range or the first step within the new salary range which is at least three percent (3%) above the employee's current rate of pay, whichever is greater.

8.17 HAZARDOUS DUTY INJURY PAY

Full-time employees injured while actually performing the required hazardous duty of making arrests, fighting fires, responding to emergency medical services alarms, emergency work involving hazardous materials, and emergency runs in a vehicle shall upon request receive, during the time unable to work due solely to the injury, for a period not to exceed twenty-four (24) weeks after date of injury, or until such time the employee is no longer entitled to compensation benefits in accordance with the Workers' Compensation law, an amount equal to the difference between the weekly workers' compensation benefit payment and the employee's regular weekly earnings from the City. However, payments from the City shall cease upon death, or at such time the injury is determined for workers' compensation purposes to be a permanent total or permanent partial disability. Hazardous duty pay shall not be made when the injury is due solely to the employee's own negligence. The Department Head shall be responsible for certifying eligibility for benefits.

8.18 SEPARATION PAY

Employees separated for any reason shall be paid all earnings authorized or due, and any authorized and compensable accrued leave time to which the employee shall be entitled.

8.19 LONGEVITY PAY (ORD. 13-254) (ORD.13-561) (ORD. 15-805)

Longevity pay is made on the basis of the number of months of continuous regular, full-time service with the City of Huntsville. All regular, full-time employees who have one (1) or more years of continuous service as of October 1st, the beginning of the fiscal year of the City of Huntsville, are eligible for longevity pay.

Longevity pay shall be paid to the employee once per fiscal year on the earliest Friday in December that is not a regular payday.

A regular, full-time employee, who resigns or is terminated prior to receiving the December payment for eligible longevity pay, as determined by the immediately preceding October 1st, shall be paid the December payment the employee has not yet received on the employee's final paycheck.

An eligible employee who retires or the designated beneficiary(ies) of an eligible deceased employee shall receive on the employee's final paycheck:

- (1) the December payment that the employee has not yet received, as determined by the immediately preceding October 1st; and
- (2) a payment for eligible longevity pay equal to the months of service as of the date of retirement or death, prorated by dividing by twelve the number of whole months elapsed from the immediately preceding October 1st to the date of retirement or death.

Designated beneficiary shall mean the individual(s) indicated on the eligible deceased employee's Outstanding Wages Beneficiary Designation Form that has been accepted and on file in the City of Huntsville's Payroll Office.

Compensation for longevity pay shall be payable as follows:

(Fiscal Year beginning Oct. 1, 2015) - \$5.25 for each month of continuous service which is equal to \$63.00 per year.

8.20 REDUCTION IN PAY

The Director of Human Resources may recommend to the City Council a reduction in the salary or wage of employees, in conformity with federal Wage and Salary Laws, as part of a general plan to reduce salaries and wages as a measure of fiscal restraint; provided, however, that said reductions in pay shall be prorated to all employees. Such reductions in pay are not subject to the appeals, grievance procedure, or disciplinary hearing process herein provided in these rules and regulations. No such reductions may be implemented without the approval of the City Council. Implementation of this section shall require at least two (2) weeks notice to employees.

8.21 APPOINTED EMPLOYEE PAY (ORD. 09-292)

Non-merit, appointed employees do not receive compensatory or overtime pay for any hours over forty (40) in a given week, are not covered by the Personnel Policies and Procedures Manual, have no vested right to continued employment beyond the current term of the Mayor, and are not allowed to receive unemployment benefits following termination of employment. Therefore, in addition to all other authorized salary, compensation, and benefits, any such individual, who is appointed to his/her position of employment for the term of the then serving Mayor, shall be entitled to appointed employee pay in the amount of three hundred twenty-five dollars (\$325) per month. Merit employees, while serving in an acting capacity of a non-merit, appointed position, shall also be entitled to appointed employee pay. Appointed employee pay shall be paid monthly and shall be incorporated into the employee's regular paycheck.

8.22 PAY PROCEDURES (ORD. 11-444)

(A) Policy

It is the policy of the City of Huntsville to pay employees by direct deposit on a bi-weekly basis and in a manner so that the amount, method and timing of wage payments comply with any applicable laws or regulations. Direct deposit allows paperless transmittal between the City of Huntsville and employees'

banking institutions and provides a safe, efficient, reliable and cost-effective method for ensuring employees receipt of their pay. There is no cost to the employee for participation in the City of Huntsville direct deposit program.

(B) Requirement

All employees, whether full-time or part-time, are required to participate in the City of Huntsville's direct deposit program as a condition of employment. Failure to comply with the City's direct deposit requirement is grounds for disciplinary action, including and up to termination. Upon employment, all employees will be required to complete an Authorization for Automatic Payroll Deposits form as part of their new hire package.

The initial pay for a new employee will be provided by paycheck for at least one pay period to allow sufficient time to process the direct deposit information with the participating banking institution. The City of Huntsville, except for the initial pay for new employees as indicated or as deemed necessary or required, will no longer issue paychecks.

(C) Special Situation

Any new employee that cannot establish a traditional bank account at a financial institution should contact the City's Payroll Division to discuss the options available to establishing a direct deposit account.

(D) Termination

Participation in the City's direct deposit program will cease upon termination of employment.

SECTION 9

PROMOTION, DEMOTION, TRANSFER

9.1 PROMOTIONAL POLICY

It is the policy of the City of Huntsville to provide promotional opportunities whenever possible to qualified employees. Employees are encouraged to qualify themselves for advancement by developing new skills, by expanding the knowledge of their work, by assuming greater responsibilities, and by maintaining a high level of job performance, service, interest, and loyalty.

The selection of candidates shall be determined in a manner whereby those individuals having demonstrated the required knowledge, skills, abilities, and personal characteristics, while possessing the greatest potential qualities of leadership for the higher position, may be selected, regardless of race, creed, color, national origin, religion, political affiliations, sex, age, or physical ability (except where age or physical ability is an essential bona fide occupational qualification).

Positions above the entrance level not governed by specific promotional requirements and procedures shall be filled by promotion of employees or by recruitment from outside the City service, with a view toward the selection of the best available candidate for each position. When an employee's qualifications are regarded as equal to or higher than outside applicants, the employee shall be given the preference.

9.2 PROMOTIONAL PROBATION

An employee promoted to a higher grade shall be on probation for a period of six (6) months. In the event that an employee fails to satisfactorily perform the functions of the position at any time during the six (6) month probationary period, then the employee serving the probationary period for a promotional appointment may be demoted to the former classification, if there is a vacancy in such classification, or may be reassigned to any other comparable classification for which the employee is qualified, subject to the approval of the Mayor and the Director of Human Resources; or the employee may be terminated. Such employee may be terminated only after a formal disciplinary hearing, and only if there is no vacancy in any such other comparable classification.

9.3 PROMOTIONAL PROCEDURES

Promotional procedures may vary according to the particular classification and/or department. In some instances, specific written procedures may be designated depicting the method of qualifying for eligibility as well as the minimum requirements necessary for obtaining the higher classification.

If formal written procedures do not exist for certain classifications and/or departments, the following criteria and principles shall be observed:

- (A) There must be an authorized, vacant position;

(B) An employee seeking a promotion shall have performed satisfactorily in his/her present position;

(C) An employee seeking a promotion shall meet the job qualification standards as stated in the job specification;

(D) Qualification evaluation methods shall be reasonable; applied with fairness and equity to all eligible candidates; and, developed with the intent of obtaining the highest degree of validity and reliability possible under the specific circumstances; and,

(E) Selection shall be made from among the best-qualified candidates without discrimination among them for any reason such as, race, sex, age, color, religion, political affiliation, disability, or national origin.

The Department of Human Resources shall properly announce promotional opportunities for which employees and, when necessary, applicants from the general public may compete. Individuals desiring to be considered for such vacancy must submit an up-to-date application form for the vacancy in accordance with the announcement.

For those vacancies to be filled by an employee within the same department where such vacancy exists and where no specific and formal written procedures for filling the vacancy exist, the Department Head, with the approval of the Director of Human Resources, may select an employee within his/her department without formally announcing and advertising the vacancy. In such cases, the Department Head shall be responsible for considering all eligible and qualified employees according to the criteria as established in this promotional policy.

Any formal or written promotional procedure governing a particular classification and/or department must have the approval of the Human Resources Department and the Mayor, with a copy being on file in the Department of Human Resources. The Director of Human Resources shall have the responsibility for properly announcing and coordinating the promotional process in accordance with established and approved procedures.

9.4 DEMOTION/RECLASSIFICATION TO A LOWER GRADED POSITION

(Also See Section 8.5

SALARY RATE UPON PLACEMENT IN A POSITION OF LOWER GRADE)

(A) Demotion

Demotion is a move of an employee to a position or classification having a lower starting salary or range. An employee may be demoted to a position of a lesser grade for which qualified when:

(1) A budgeted vacancy exists; and

(2) The employee voluntarily requests a lower classification; or

(3) An employee in a promotional probationary status does not perform satisfactory in his/her current position, subject to the approval of the

Mayor and the Director of Human Resources. Such demotion can be levied without a formal disciplinary hearing, with no right of review from such action. Such employee is entitled to notice and an informal hearing before the Department Head or other designated official; or

(4) When an employee is unable to perform the essential functions of the job as a result of a permanent physical or mental impairment that substantially limits one or more major life activities; or,

(5) The employee, after a hearing, is to be demoted as a disciplinary measure.

Subsection (B) of this section shall not apply to employees who are demoted for a reason provided in this subsection (A).

(B) Reclassification to a Lower Graded Position

Employees placed in a lower graded position (through no fault of their own) as a result of a job reclassification action or reduction in force, will retain their current pay and benefits, and be placed in a category for priority reassignment for a period of two years. (Employees who have been laid off shall receive consideration for any vacant position before employees who have been reclassified to a lower graded position.) The following rules will apply to employees reclassified to a lower graded position:

(1) The employee must have held the current grade for at least one (1) year prior to being placed in the lower grade;

(2) The employee will be placed, without competitive promotion requirements, in a category for priority placement in the next vacant position of the grade level from which the employee was reclassified where the employee can meet the minimum qualifications;

(3) For a two year period, beginning with the official date of the personnel action resulting in the reclassification to a lower graded position, the employee will be eligible for cost of living and step increases to the extent the employee would have received such increases had the employee still been serving at the previous grade classification;

(4) In the event two or more employees within the same grade are reclassified to a lower graded position at the same time, as provided in this section, and a vacancy at the previous grade occurs within the two (2) year period for which two (2) or more of such employees meet the minimum qualifications, then the employee with the most time of employment in the grade from which such employees were reclassified shall receive priority for placement in the vacancy over all other such similarly situated employees. In the event two or more of such employees have the same amount of time of employment in the grade from which they were reclassified, then the employee with the most time of employment with the City of Huntsville shall receive priority for placement in the vacancy over all other such similarly situated employees;

(5) If a vacancy at the previous grade occurs within the two (2) year period, for which the employee meets the minimum qualifications, and the

employee declines to be placed in the vacant position at the previous grade level, the employee will be removed from any further priority consideration, will remain in the lower grade level, and will be eligible for promotion to a higher grade subject to the same requirements and qualifications as any other employee;

(6) At the end of the two (2) year period, or upon declining reassignment to the previous grade, the employee will not be eligible for any further cost of living or step increases, until such time as the rate of pay for the employee's lower pay grade and step level reaches the employee's current rate of pay. At such time, the employee will resume eligibility for future cost of living and step increases the same as other employees classified within the same grade and step; and,

(7) If the provisions of this subsection conflict with any necessary or required remedy or action under the state workers' compensation laws, the federal Americans with Disabilities Act, or any other federal or state laws, then any such necessary or required remedy or action shall take priority over the provisions of this subsection.

9.5 TRANSFER

A transfer is the movement of an employee from one division of a department to another or from one department to another.

(A) Transfers by the Mayor

Any time a vacancy occurs in a position of employment, the Mayor, following the required advertisement process, is authorized to and may make an interdepartmental transfer to such position of employment, if a qualified person is available in another department and such person either requests or consents to the transfer. However, an involuntary interdepartmental transfer must be approved by the City Council. In addition, employees appointed by the Mayor pursuant to the provisions of Act No. 738 of the 1971 Legislature shall not be eligible for transfer from an appointed position to a merit position without approval of the City Council.

(B) Transfers by the Director of Human Resources

The Director of Human Resources is authorized to make a transfer, without advertising the position, in the following situations:

(1) To reassign an employee who has been reclassified to a lower graded position; or

(2) To accommodate an employee pursuant to the Americans with Disabilities Act, the Family Medical Leave Act, or other federal or state law(s).

(C) Transfers by a Department Head

A Department Head is authorized to make transfers within his/her department by transferring an employee from another position of the same or similar class having the same maximum pay rate, involving the performance of similar

duties, and requiring essentially the same basic qualifications. Such transfers may be voluntary or involuntary.

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 10

WORKING HOURS, ATTENDANCE, AND LEAVE

10.1 WORKWEEK

A workweek is the number of hours an employee is scheduled for work during a period of seven (7) consecutive calendar days. The standard workweek for most employees is forty (40) hours; however, employees in certain classifications, such as fire suppression personnel, are required to work longer than the standard forty (40) hour week. Employees regularly assigned a workweek in excess of forty (40) hours are subject to benefits and requirements comparable to standard workweek employees, the difference being in the method of calculation. The City of Huntsville has adopted the 7(k) exemption provided by the Fair Labor Standards Act for fire suppression personnel, establishing the standard work period as twenty-one (21) consecutive calendar days. During such work period, fire suppression personnel will be scheduled to work 168 hours.

10.2 TIME REPORTING

For purpose of reporting regular time, overtime, leave, or tardiness, time shall be rounded to the nearest tenth of an hour.

10.3 ATTENDANCE

Employees shall be at their designated places of work at the beginning of the scheduled work time. If an employee fails to report, is tardy or absent, leaves the work place without proper authorization, or misuses leave privileges, such employee is subject to disciplinary action. Time cards, submitted each Monday, shall indicate the attendance for the preceding week.

10.4 ABSENTEEISM

An employee shall be responsible for ensuring that notification of any unscheduled absence is reported to his/her immediate supervisor or other designated individual in accordance with departmental policy; or in the absence of a departmental policy, within one (1) hour after the beginning of the scheduled workday on which the absence occurs. Unauthorized absences without proper notification may result in disciplinary action, including termination. Three (3) consecutive workdays' absence without proper notice may be considered as a resignation without notice.

10.5 AUTHORIZED LEAVE

Authorized leave is any absence during regularly scheduled work hours that are approved by the proper authority. Authorized leave may be with or without pay and shall be granted in accordance with these rules on the basis of the work requirements and, whenever possible, the personal wishes of the employee.

The proper authority may cancel any scheduled leave at any time in the event of emergency situations and/or the necessity for certain manpower requirements. Should such cancellation of leave occur, the employee shall

report to work as directed. Failure to report shall be grounds for disciplinary action.

10.6 ANNUAL LEAVE (ORD. 07-897)

Accrual of annual leave for City employees will be as follows:

Less than 10 years of service -	4 hours per pay period
10 years to 15 years of service -	5 hours per pay period
15 years to 20 years of service -	6 hours per pay period
20 years or more of service-	7 hours per pay period

For purposes of determining years of service under this subsection, all time worked for the City of Huntsville will be considered, without regard to any break in service.

Annual leave accrued shall be prorated in the case of employees whose normal workweek requires a greater number of hours to be worked other than the standard forty (40) hour workweek.

Eligible employees will be credited with annual leave as it is earned. However, an employee is entitled to use annual leave only after being currently employed for a period of ninety (90) days without a break in service.

Leave time shall not accrue while in a non-pay status.

Supervisors and employees have a mutual obligation to plan and schedule leave. Consequently, if annual leave must be denied or previously approved leave canceled, an alternative period of time should be scheduled.

Employees may accrue and carry forward to the next calendar year 260 hours (or the equivalent for fire suppression employees) of annual leave, to be used at the discretion of the employee and the convenience of the City. In the event an employee is denied scheduled vacation by the Department Head or other designated representative for the convenience of the City, or is called back to work from a scheduled vacation, resulting in a carry-over balance in excess of the authorized maximum, the employee shall, upon request and approval of the Mayor, have such leave reinstated. Otherwise, any leave in excess of 260 hours (or equivalent for fire suppression employees) must be taken by the beginning of the first pay period in January or be forfeited.

An employee who is on scheduled annual leave and becomes sick or disabled, as supported by proper medical authority, may request such annual leave be changed to sick leave.

Upon termination of employment, employees shall receive compensation for accrued annual leave, not to exceed the maximum 260 hours (or equivalent for fire suppression employees). In the event of an employee's death, payment for all accrued annual leave credited to the employee's leave balance at the time of death shall be made to the beneficiary or estate of the deceased employee.

10.7 SICK LEAVE

The City of Huntsville shall provide sick leave for its employees. Such leave shall not be considered a right, but, rather, a privilege. Employees may use sick leave only in case of actual sickness or disability.

Eligible employees shall be credited with sick leave at the rate of four (4) hours per pay period. Sick leave accrued shall be prorated in the case of employees whose normal workweek requires a greater number of hours to be worked other than the standard forty (40) hour workweek. Sick leave becomes available for use at the beginning of the next pay period after which it was earned. There shall be no maximum amount of sick leave an employee may accrue.

Leave time shall not accrue while in a non-pay status.

No employee shall be authorized to take paid sick leave without proper and sufficient accrual. If such leave credits are inadequate to cover absences for which sick leave is granted, the time lost may be charged first to any other authorized accrued leave and then as leave without pay excused.

An employee will not be charged for sick leave on any legal holiday that may be observed by the City during the term of the illness.

Earned sick leave shall be granted for the employee's:

- (A) Personal illness or injury;
- (B) Personal medical, mental, dental, or optical consultation or treatment, including consultation or treatment at the City Clinic;
- (C) Exposure to contagious diseases where there is reason to believe there exists actual danger that the disease may be transmitted to others during the course of official duties; or,
- (D) Pregnancy, miscarriage, personal childbirth, and recovery therefrom.

If there is reason to believe certain health factors of an employee pose a threat to the good health and well being of the employee or others, the Department Head may direct the employee to utilize sick leave and to seek medical attention.

The Department Head or designated representative shall determine if the employee is making proper use of the authorized sick leave benefits. Proof of illness, including a certificate from a doctor who regularly treats the illness complained of by the employee and who, in fact, is treating the employee, may be required. Misuse of such leave shall be cause for disciplinary action.

An employee shall be subject to disciplinary action if he/she engages in outside employment at any time within a calendar day during which he has used sick leave. There are two (2) exceptions to this rule – (1) when sick leave in an amount less than four (4) hours has been used by an employee for the sole purpose of obtaining personal medical, mental, dental or optical consultation or

treatment, including consultation or treatment at the City Clinic; and, (2) when sick leave is used pursuant to Section 10.8 herein.

All sick leave shall be forfeited upon termination of employment, except as provided in Sections 8.18 and 12.4. Should the employee be rehired within a period of two (2) years, the sick leave balance at the time of termination shall be reinstated.

An employee who enters the armed services shall have all sick leave benefits reinstated, if, within ninety (90) days following termination of service with the armed services, the individual returns to work with the City of Huntsville.

Upon retirement or death, compensation shall be authorized for an amount equal to fifty percent (50%) of all sick leave credits available at the time of an eligible retirement or death. For purposes of this provision, an employee must meet the years of service and/or the age requirements established for retirement by the Retirement System of Alabama; however, membership in the Retirement System of Alabama is not required. In the event that an employee is retiring due to physical disability, the employee may elect to use all accumulated sick leave prior to separation in lieu of payment for sick leave credits, except as provided in Section 12.4.

Retiring employees may, at their option, and in lieu of receiving payment for unused sick leave, convert unused sick leave to retirement service credit so as to extend retirement benefits.

Where the retiring employee elects the option of converting unused sick leave to retirement service credit, the retiring employee may cause to be transferred to his/her City of Huntsville sick leave credits any unused sick leave credits accrued while the employee was employed by another qualified member of the Retirement Systems of Alabama (a member agency). The employee shall be responsible for obtaining a certified copy of the employee's payroll record from the member agency showing all accrued, but unused, sick leave credits of the employee at the time of the employee's separation from employment with the other member agency. The employee's sick leave credits from the member agency may be used solely for the purpose of converting such unused, transferred sick leave credits to retirement service credit so as to extend retirement benefits. Except for extension of retirement benefits, sick leave credits transferred from another member agency shall not be used for any other purpose, including, but not limited to, sickness, disability, or lump sum compensation upon death or retirement. Employees terminated prior to retirement shall not be eligible to transfer sick leave credits from another member agency for the purposes of extending retirement benefits.

10.8 FAMILY AND MEDICAL LEAVE (ORD. 08-776)(ORD. 10-922)(ORD. 16-266)

(A) Definitions

For purposes of family and medical leave, the following terms shall have the respective meanings ascribed in this section:

- (1) Days mean calendar days;

(2) Eligible employee means an employee, as defined by Section 10.8(A)(3), who has completed twelve (12) months of employment, and has been employed for at least 1,250 hours of service during the twelve (12) month period immediately preceding the commencement of leave;

(3) Employee means a person employed in a full-time position or a part-time position wherein the person is employed to work more than twenty-four (24) hours per week;

(4) Group health plan means health insurance coverage for medical and dental care provided as an incident of employment and on existing terms and conditions as provided to employees similarly situated;

(5) Health care provider means:

- (a) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State in which the doctor practices; or
- (b) Any other person determined by the Secretary of Labor to be capable of providing health care services.

(6) Hours of service means hours of work in accordance with the principles of the Fair Labor Standards Act. Hours of service does not include paid leave time, non-compensable on-call time, or any other time not spent predominantly for the City's benefit;

(7) Parent means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter as defined below. This term does not include parents "in law."

(8) Son or daughter means a biological child, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence.

- (a) "Incapable of self-care" means that the individual requires active assistance or supervision to provide daily self-care in three or more of the "activities of daily living." These include, grooming, hygiene, bathing, dressing, eating, *etc.*;
- (b) "Physical or mental disability" means a physical or mental impairment that substantially limits one or more of the major life activities of an individual;

(9) Spouse means a husband or wife, including those in same-sex marriages, which were made legal in the United States as of June 26, 2015 (See *Obergefell v. Hodges*, 135 S.Ct. 2584(2015));

(10) Serious health condition means an illness, injury, impairment, or physical or mental condition that involves:

- (a) Inpatient care in a hospital, hospice, or residential medical care facility; or

(b) Continuing treatment by a health care provider.

(11) The term "Covered active duty" means

(a) "Covered active duty" for members of a regular component of the Armed Forces means duty during deployment of the member with the Armed Forces to a foreign country.

(b) "Covered active duty" or call to covered active duty status in the case of a member of the Reserve components of the Armed Forces means duty during the deployment of the member with the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation, in accordance with 29 CR 825.102. The leave may commence as soon as the individual receives the call-up notice. (Son or daughter for this type of FMLA leave is defined the same as for child for other types of FMLA leave except that the person does not have to be a minor.) This type of leave would be counted toward the employee's 12-week maximum of FMLA in a 12-month period."

(12) The term "contingency operation" has the same meaning given such term in section 101(a)(13) of title 10, United States Code;

(13) The term "covered service member" means:

(a) A 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 otherwise on the temporary disability retired list, for a serious injury or illness; or

(b) A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

(14) Outpatient status, with respect to a covered service member, means the status of a member of the Armed Forces assigned to:

(a) A military medical treatment facility as an outpatient; or,

(b) A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

(15) The term "next of kin", used with respect to an individual "means the nearest blood relative of that individual;

(16) The "next of kin of a covered service member" is the nearest blood relative, other than the covered service member's spouse, parent, son or daughter, in the following order of priority: blood relatives who have been

granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member's only next of kin. For example, if a covered service member has three siblings and has not designated a blood relative to provide care, all three siblings would be considered the covered service member's next of kin. Alternatively, where a covered service member has a sibling(s) and designates a cousin as his or her next of kin for FMLA purposes, then only the designated cousin is eligible as the covered service member's next of kin. An employer is permitted to require an employee to provide confirmation of covered family relationship to the covered service member pursuant to 29 CFR 825.122(k).

(17) The term "serious injury or illness" means:

(a) in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

(b) in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period when the person was a covered service member, means a qualifying (as defined by the Secretary of Labor) injury or illness incurred by a covered service member in the line of duty on active duty that may render the covered service member medically unfit to perform the duties of his or her office, grade, rank or rating.

(18) City means the City of Huntsville.

(19) Leave Year shall mean the 12-month period measured forward from the date an employee's initial FMLA leave begins.

(B) Leave Provisions

(1) Eligibility. Eligible employees are entitled to take up to twelve (12) workweeks of leave during a Leave Year in the event of one or more of the following:

(a) The birth of the employee's son or daughter, and to care for the newborn child;

(b) The placement with the employee of a son or daughter for adoption or foster care, and to care for the newly placed child;

(c) To care for the employee's spouse, son, daughter, or parent with a serious health condition;

(d) A serious health condition that makes the employee unable to perform one or more of the functions of his/her job; and/or,

(e) An employee may take a FMLA leave due to incapacity due to pregnancy, prenatal medical care or child birth.

(f) Qualifying exigency leave for families of members of the National Guard or Reserves or of a regular component of the Armed Forces when the covered service member is on covered active duty or called to covered active duty.

(2) The entitlement to leave under Section 10.8(B)(1)(a) and Section 10.8(B)(1)(b) for birth or placement of a child shall expire at the end of the twelve (12) month period beginning on the date of such birth or placement.

(3) Where spouses are both employed by the City of Huntsville and are eligible employees, the aggregate number of workweeks of leave to which both may be entitled may be limited to twelve (12) workweeks during any twelve (12) month period, if such leave is taken:

(a) Under Section 10.8(B)(1)(a) or Section 10.8(B)(1)(b); or,

(b) To care for a sick parent under Section 10.8(B)(1)(c).

(C) Covered Service Member Family Leave.

(1) Subject to Section 10.8(C)(1)(a) an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of twenty-six (26) workweeks of leave during a twelve (12) month period to care for the covered service member. The leave described in this paragraph shall only be available during a single twelve (12) month period. Leave may be taken for the following reasons:

(a) Any qualifying exigency (as the Secretary of Labor shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces in support of a contingency operation.

(b) To care for a covered service member with a serious injury or illness, incurred in the line of covered active duty, if the employee is the spouse, son, daughter, parent, or next of kin of the covered service member.

(c) Short-notice deployment.

(i) To address any issue that arises from the fact that a covered service member is notified of an impending call or order to

covered active duty in support of a contingency operation seven or less calendar days prior to the date of deployment;

- (ii) Leave taken for this purpose can be used for a period of seven calendar days beginning on the date a covered service member is notified of an impending call or order to covered active duty in support of a contingency plan.

(d) Military events and related activities.

- (i) To attend an official ceremony, program, or event sponsored by the military that is related to the covered active duty or call to covered active duty status of a covered service member; and

- (ii) To attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the covered active duty or call to covered active duty status of a covered service member;

(e) Childcare and school activities.

(f) Financial and legal arrangements.

(g) Counseling.

(h) Rest and recuperation.

(i) Post-deployment activities.

(2) An employee whose spouse, son, daughter or parent either has been notified of an impending call or order to covered active military duty or who is already on covered active duty may take up to 12 weeks of leave for reasons related to or affected by the family member's call-up or service. The qualifying exigency must be one of the following:

(a) Short-notice deployment

(b) Military events and activities

(c) Child care and school activities

(d) Financial and legal arrangements

(e) Counseling

(f) Rest and recuperation

(g) Post-deployment activities, and

(h) Additional activities that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave.

(3) During the single twelve (12) month period described in Section 10.8(C)(1), an eligible employee shall be entitled to a combined total of twenty-six (26) workweeks of leave under Sections 10.8(B)(1) and 10.8(C). Nothing in this paragraph shall be construed to limit the availability of leave under Section 10.8(B)(1) during any other twelve (12) month period.

(4) Where spouses are both employed by the City of Huntsville and are eligible employees, the aggregate number of workweeks of leave to which both may be entitled under Section 10.8(C) may be limited to twenty-six (26) workweeks during the single twelve (12) month period described in Section 10.8(C) if such leave is taken as follows:

(a) Leave under Section 10.8(C); or,

(b) A combination of leave under Section 10.8(C) and leave described in Section 10.8(B)(1).

(D) Notice

(1) In any case in which the necessity for leave under Section 10.8(B)(1)(a) or Section 10.8(B)(1)(b) is foreseeable based on an expected birth or placement, the employee shall provide the City written notice at least thirty (30) days, before the date of leave is to begin, of the employee's intention to take leave, except that if the date of birth or placement requires leave to begin in less than thirty (30) days, the employee shall provide such written notice at least two (2) workdays before leave is to begin, or as soon as practicable, considering the individual facts and circumstances.

(2) In any case in which the necessity for leave under Section 10.8(B)(1)(c), Section 10.8(B)(1)(d), or Section 10.8(C)(1)(a) is foreseeable based on planned medical treatment, the employee shall:

(a) Make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the City, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent, as appropriate; and,

(b) Provide the City with not less than thirty (30) days written notice before the date the leave is to begin, of the employee's intention to take leave under such subsection, except that if the date of the treatment requires leave to begin in less than thirty (30) days, the employee shall provide such written notice at least two (2) work days before leave is to begin, or as soon as practicable, considering the individual facts and circumstances.

(3) In any case in which the necessity for leave under Section 10.8(C)(1)(a) is foreseeable, whether because the spouse, or a son, daughter, or parent, of the employee is on covered active duty, or because of notification of an impending call or order to covered active duty in support of a contingency operation, the employee shall provide such notice to the City as is reasonable and practicable.

(4) Failure to provide written notice as prescribed in this Section shall be grounds to deny leave and the employee will be subject to City of Huntsville Personnel Policies and Procedures Manual, Section 10.14 (Leave Without Pay Unexcused). All notices required by employees for application for leave pursuant to the Family Medical Leave Act shall be in writing directly to the Human Resources Director. The Human Resources Director will notify the employee in writing regarding the approval or disapproval of the employee's Family Medical Leave Act request. The Human Resources Director will notify the employee's Department Head of the employee's written notice requesting the Family Medical Leave Act leave and of the action taken regarding the employee's written notice.

(5) Department Heads will notify the Human Resources Director whenever an employee has requested leave for any reason as defined in Section 10.8(B)(1) or Section 10.8 (C) of this Family Medical Leave Act Policy. The Human Resources Director is to be notified without regard to whether the employee has available paid leave.

(6) Department Heads will notify the Human Resources Director whenever an employee has used unscheduled leave for more than five (5) consecutive workdays or has otherwise indicated that leave in excess of five (5) consecutive workdays may be needed by the employee for any reason as defined in Section 10.8 (B)(1) or Section 10.8(C) of this Family Medical Leave Act Policy.

(E) Leave Taken Intermittently or on a Reduced Leave Schedule

(1) An employee shall not take leave under Section 10.8 (B)(1)(a) or Section 10.8(B)(1)(b) intermittently or on a reduced schedule unless the employee and City agree otherwise. An employee may take leave under Section 10.8(B)(1)(c), Section 10.8(B)(1)(d), or Section 10.8(C) intermittently or on a reduced leave schedule when medically necessary. Medical necessity shall be determined and certified by a health care provider as provided in Section 10.8(E). Leave under Section 10.8(C)(1)(a) and 10.8 (C)(1)(b) may be taken intermittently or on a reduced leave schedule.

(2) If an employee requests intermittent leave, or leave on a reduced leave schedule, under Section 10.8(B)(1)(c), Section 10.8(B)(1)(d), Section 10.8(C), that is foreseeable based on planned medical treatment, the City may require such employee to transfer temporarily to an available alternative position offered by the City for which the employee is qualified and that:

(a) Has equivalent base pay and benefits; and,

(b) Better accommodates recurring periods of leave than the regular employment position of the employee.

(F) Medical Certification Requirement

(1) Medical certification is required for medical leave under Section 10.8(B)(1)(c), Section 10.8(B)(1)(d), or Section 10.8(C). The medical certification must be issued by the health care provider of the eligible

employee or the health care provider of the son, daughter, spouse, or parent of the employee, or of the next of kin of an individual in the case of leave taken under Section 10.8(C), as appropriate. Medical certification must be returned within 15 days of receipt from the City.

The City may request recertification every 30 days unless the medical certification indicates that the minimum certification is more than 30 days. In the event the minimum medical certification is more than 30 days, the City will wait until that minimum medical certification expires before requesting a recertification. The employee shall have 15 days from the date they receive such notification to return the recertification to the City. Certification shall include:

- (a) The date on which the serious health condition commenced;
- (b) The probable duration of the condition;
- (c) The appropriate medical facts within the knowledge of the health care provider regarding the condition;
- (d) Certification for qualifying exigency shall include:
 - (1) A statement or description, signed by the employee, of appropriate facts regarding the qualifying exigency for which FMLA leave is requested;
 - (2) The approximate date on which the qualifying exigency commenced or will commence;
 - (3) If an employee requests leave because of a qualifying exigency for a single, continuous period of time, the beginning and end dates for such absence;
 - (4) If an employee requests leave because of a qualifying exigency on an intermittent or reduced schedule basis, an estimate of the frequency and duration of the qualifying exigency; and
 - (5) If the qualifying exigency involves meeting with a third party, appropriate contact information for the individual or entity with whom the employee is meeting (such as the name, title, organization, address, telephone number, fax number, and e-mail address) and a brief description of the purpose of the meeting.
- (e) Certification for care of covered service member shall include:
 - (1) The name, address, and appropriate contact information (telephone number, fax number, and/or email address) of the health care provider, the type of medical practice, the medical specialty, and whether the health care provider is one of the following:
 - (i) A DOD health care provider;

- (ii) A VA health care provider;
- (iii) A DOD TRICARE network authorized private health care provider; or
- (iv) A DOD non-network TRICARE authorize private health care provider.

(2) Whether the covered service member's injury or illness was incurred in the line of duty on covered active duty;

(3) The approximate date on which the serious injury or illness commenced, and its probable duration;

(4) A statement or description of appropriate medical facts regarding the covered service member's health condition for which FMLA leave is requested. The medical facts must be sufficient to support the need for leave.

(f) For purposes of leave under Section 10.8(B)(1)(c), a statement that the eligible employee is needed to care for the son, daughter, spouse or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent. For purposes of leave under Section 10.8(B)(1)(d), a statement that the employee is unable to perform the functions of his/her job;

(g) In the case of certification for intermittent leave, or leave on a reduced leave schedule, for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment;

(h) In the case of certification for intermittent leave, or leave on a reduced leave schedule, under Section 10.8(B)(1)(d), a statement of the medical necessity for the intermittent leave or leave on a reduced leave schedule, and the expected duration of the intermittent leave or reduced leave schedule; and,

(i) In the case of certification for intermittent leave, or leave on a reduced leave schedule, under Section 10.8(B)(1)(c), a statement that the employee's intermittent leave or leave on a reduced leave schedule is necessary for the care of the son, daughter, parent, or spouse who has a serious health condition, or will assist in their recovery, and the expected duration and schedule of the intermittent leave or reduced leave schedule.

(2) The City may require, at the expense of the City, the eligible employee obtain the opinion of a second health care provider designated or approved by the City concerning any information certified as provided above.

(3) When the second opinion differs from the opinion in the original certification, the City may require, at the expense of the City, the employee obtain the opinion of the third health care provider designated or approved jointly by the City and the employee. The opinion of the third health care

provider concerning the information certified above shall be final and binding on the City and the employee.

(4) The City requires that requests for leave under Section 10.8 (C)(1)(a) be supported by a certification issued at such time and in such manner as prescribed by 10.8(F)(d).

(5) At the conclusion of the employee's leave pursuant to the Family Medical Leave Act, where the leave was for the purpose of the employee's own serious health condition pursuant Section 10.8(B)(1)(d), the employee shall provide to the Human Resources Director, upon return to duty, a medical certification that the employee is fit to resume the functions of his/her job. The employee may be subject to a fitness for duty before he/she is able to be returned to duty.

(G) Employment and Benefit Protection

(1) Eligible employees who have been granted family or medical leave under this policy shall be entitled, on return from such leave, to be restored by the City to the position of employment held by the employee when the leave commenced, if that position is vacant. If that position is not vacant, the employee shall be restored to an equivalent position with equivalent employment benefits, base pay, and other terms and conditions of employment in effect at the time the leave commenced.

(2) Taking family or medical leave shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(3) The City shall maintain coverage under any group health plan for the duration of any approved leave at the level and under the conditions that coverage would have been provided, if the employee had continued in employment. Employees will be required to pay all premiums for group health plans during the period of absence to maintain eligibility for such benefits. Payment will be due at the same time as it would be made if by payroll deduction. The City will provide the employee with advance written notice of the terms and condition under which these payments must be made. The City reserves the right to use future pay checks to make up any arrears.

(4) The City's obligation to maintain health insurance coverage will cease if the employee's premium payment is more than 30 days late. The City will provide written notice to the employee that the payment has not been received. Such notice shall be mailed to the employee at least 15 days before the coverage is to cease.

(5) If coverage lapses because an employee has not made required premium payments, upon the employee's return from Leave, the City will restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payments had not been missed, including family or dependent coverage.

(H) Failure to Return to Work

(1) The City may recover the premium that the City paid for maintaining coverage for the employee under a group health plan during any period of unpaid leave under this policy under the following conditions:

- (a) If the employee fails to return from the leave, after the period of leave to which the employee is entitled has expired; and,
- (b) The employee fails to return to work for a reason other than the following:
 - (i) The continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under Section 10.8(B)(1)(c), Section 10.8(B)(1)(d) or Section 10.8(C); or,
 - (ii) Other circumstances beyond the control of the employee.

(2) The City may require that a claim that an employee is unable to return to work because of the continuation, recurrence, or onset of the serious health condition described in Section 10.8(H)(1)(b)(i) be supported by the following:

- (a) A certification issued by the health care provider of the son, daughter, spouse, or parent of the employee, as appropriate, in the case of an employee unable to return to work because of a condition specified in Section 10.8(B)(1)(c);
- (b) A certification issued by the health care provider of the eligible employee, in the case of a employee unable to return to work because of a condition specified in Section 10.8(B)(1)(d); or,
- (c) A certification issued by the health care provider of the covered service member being cared for by the employee, in the case of an employee unable to return to work because of a condition specified in Section 10.8(C). The employee may be subject to section 12.4 Maximum Job Absence and section 10.14 Leave Without Pay Unexcused of the Personnel Policies and Procedures Manual.

(I) Paid and Unpaid Leave

(1) Eligible employees are required to use all available annual leave and sick leave, when appropriate, concurrent with any leave taken under this policy, prior to taking unpaid leave under the provisions of this policy.

(2) An eligible employee shall only use sick leave pursuant to Section 10.7 of the Personnel Policies and Procedure Manual.

(J) Unlawful Acts by Employer

(1) The City is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA.

(2) The City is prohibited from discharging or in any other way discriminating against any employee for opposing or complaining about any unlawful practice under the FMLA, or for any involvement in any proceeding under or relating to the FMLA.

(K) Compliance with Law

It is the intent of this policy to comply in all respects with the Family Medical Leave Act as set forth in 29 U.S.C. §§ 2601 *et seq.* In the event of any conflict between this policy and the federal law and regulations, the federal law and regulations shall govern.

10.9 HOLIDAY LEAVE

(Also See Section 8.13 HOLIDAY PAY)

The following holidays shall be the official holidays for all full-time employees of the City of Huntsville:

- New Year's Day
- Martin Luther King's Birthday (as nationally observed)
- Memorial Day
- Independence Day
- Labor Day
- Veterans Day
- Thanksgiving Day
- Christmas Day

In addition, three (3) other holidays during a calendar year shall be declared and authorized at the discretion of the Mayor of the City of Huntsville.

As many employees as possible will be allowed off on a recognized holiday. However, certain responsibilities and duties cannot be dispensed of to ensure and maintain efficient operation of City government. All full-time employees scheduled to work on a holiday, or if such holiday falls on the employee's off day, shall have such holiday deferred and shall be authorized to take said holiday off on another day equivalent to one (1) hour for each hour worked on the recognized holiday, not to exceed the value of the holiday.

Regular, part-time employees required to work on a holiday should have such holiday deferred, and be authorized to take said holiday off on another day. The employee should be authorized one (1) hour for each hour worked, or each hour that he/she normally would have been scheduled to work, on the day recognized as a holiday, not to exceed the value of the holiday.

Each holiday shall have a declared value of eight (8) hours for full-time employees having an established eight (8) hour, five (5) day, workweek. For fire suppression personnel having an established twenty-one (21) day work period each holiday shall have a declared value of twenty-four (24) hours per holiday. For other full-time employees working alternate schedules, as approved by the Mayor, each holiday shall receive the value assigned by the Human Resources Director for employees working alternate schedules of that type. In the event of any question regarding the value of a holiday for any individual or class of employees, the Human Resources Director shall make a final determination declaring the value of the holiday.

To be eligible for the paid holiday or deferred holiday, an employee must be in an active employment status and not on leave without pay unexcused, disciplinary suspension, or unpaid leave of absence (pursuant to the Family Medical Leave Act, Section 10.8 herein, Section 10.12 herein, or as otherwise authorized and approved) on the previous scheduled workday or the next scheduled workday after the holiday. An employee on scheduled, authorized and compensable leave (including paid leave pursuant to the Family Medical Leave Act or Section 10.8 herein) when the holiday is recognized shall be compensated for the holiday in lieu of the use of accrued leave.

In the event any of the holidays fall on Saturday or Sunday, the City shall recognize the previous Friday or following Monday as the legal holiday.

As an incentive for employees to take deferred or accrued holiday leave, holiday time earned during the calendar year must be taken prior to the end of the last pay period in June of the following year. However, in the event an employee is denied scheduled holiday leave by the Department Head or other designated representative for the convenience of the City, or is called back to work while utilizing holiday leave, resulting in a forfeiture of holiday leave, the employee shall, upon request and approval of the Mayor, have such holiday leave reinstated.

10.10 COMPENSATORY LEAVE (ORD. 13-145)
(Also See Section 8.12 COMPENSATORY TIME POLICY)

(A) Non-Exempt Employees

Compensatory time should be used as soon as practicable after it is earned. Non-exempt employees earning compensatory time during any workweek and subsequently taking leave during that workweek shall be required to use the compensatory time earned during that workweek before compensatory time earned in a prior workweek, or annual or deferred holiday leave can be used.

(B) Exempt Employees

Compensatory time should be used as soon as practicable after it is earned. Compensatory time earned by exempt employees during the previous calendar year must be taken prior to the ending of the last pay period in June of the following year, or such employees shall forfeit it. The only exception to this compensatory time forfeiture provision is in the event such compensatory time has been earned solely pursuant to Section 10.21(C)(2)(b). However, in the event an exempt employee is denied scheduled compensatory leave by the Department Head or other designated representative for the convenience of the City, or is called back to work while on compensatory leave, resulting in a forfeiture of compensatory leave, the employee shall, upon request and approval of the Mayor, have such compensatory leave reinstated. The use of compensatory time accrued pursuant to Section 10.21(C)(2)(b) shall be governed by the terms of Section 10.21(C)(2)(b) in lieu of this Section 10.10(B).

10.11 ADMINISTRATIVE LEAVE (ORD. 13-145)

Administrative Leave is leave with pay granted to one or more employees and not requiring the employee(s) to use accrued paid leave. Administrative Leave can be granted in the following circumstances:

(A) The Mayor may grant Administrative Leave at his/her discretion, including, but not limited to, for short-term circumstances involving an unforeseeable catastrophic event affecting the employee or a member of the employee's immediate family that was beyond the control of the employee and which renders the employee unable to attend work. Unforeseeable catastrophic event may include hazardous weather events or emergency conditions which necessitate the closing of the work place to the public and employees due to safety concerns as contemplated in Section 10.21;

(B) A Department Head consistent with the provisions of Section 18, Drug and Alcohol Policies, may grant Administrative Leave. The Department Head will notify the Director of Human Resources in writing when an employee is granted Administrative Leave pursuant to Section 18; and,

(C) As a non-disciplinary measure, a Department Head, with the written approval of the Mayor or the Director of Human Resources, may grant Administrative Leave, if disciplinary action is being considered by the Department Head.

The Mayor or Department Head may require an employee on Administrative Leave to report to work and/or contact their supervisor periodically.

10.12 LEAVE OF ABSENCE

An employee may be granted leave of absence without pay for a period not to exceed six (6) months for sickness, disability, or other reasonable and justifiable purposes. Such leave shall require the prior approval of the Department Head, the Director of Human Resources, and the Mayor. Such leave may only be extended by the Mayor under extenuating circumstances.

Where the employee qualifies for leave pursuant to the Family and Medical Leave as set forth in Section 10.8, the leave of absence, up to the first twelve weeks, shall be considered to be family and medical leave pursuant to Section 10.8 and shall run concurrent with any leave of absence granted under this section. In no event shall the combined family and medical leave pursuant to Section 10.8 and any approved leave of absence pursuant to this section exceed six (6) months.

Employees who have applied for and received approval for a leave of absence shall not be entitled to any accrued benefits during the period of absence. Employees will be required to pay all premiums for group insurance during the period of absence to maintain eligibility for such benefits.

Failure to return to work from a leave of absence at the prescribed time may be considered as a resignation without notice.

At the discretion of the Department Head, the temporary appointment authority described in Section 5.7 (C) may be utilized to provide replacement service while an employee, on approved leave of absence without pay, is expected to be on leave for more than three (3) months.

10.13 LEAVE WITHOUT PAY EXCUSED

In accordance with department policy, an employee who does not have sufficient leave, yet is excused by his/her Department Head, Division Manager, or supervisor from work temporarily, shall be considered as being on Leave Without Pay Excused.

10.14 LEAVE WITHOUT PAY UNEXCUSED

Any employee who, without good cause, fails to report to work, without the permission of his/her Department Head, Division Manager, or supervisor, shall be considered as on Leave Without Pay Unexcused and shall be subject to disciplinary action up to and including termination, and shall have all hours absent reported as Leave Without Pay Unexcused. The employee on Leave Without Pay Unexcused shall not be entitled to any benefits, including insurance coverage, for such period of time he/she is on Leave Without Pay Unexcused.

An employee who fails to report to work without permission of the Department Head, Division Manager, or supervisor for a period of three (3) consecutive workdays shall be considered to have abandoned the job and to have resigned without notice.

10.15 INDUSTRIAL INJURY LEAVE

Industrial injury leave shall be provided to an employee who sustains an injury on the job and who is authorized by appropriate medical authority to be off from work as a result of such injury. Industrial injury leave shall be for the period of disability, beginning the day after sustaining the injury, but shall not exceed three (3) days, including off days. The employee shall be paid for the usual working days that fall during the three (3) day industrial injury leave period prior to the employee's eligibility for workers' compensation benefits.

10.16 SUPPLEMENTAL LEAVE TO WORKERS' COMPENSATION

An employee may use accrued sick leave, annual leave, compensatory, and holiday time while unable to work due solely to an industrial injury sustained on the job on a prorated basis as follows:

(A) Upon request, the employee shall receive pay for and be charged with the amount of such accrued sick leave, annual leave, compensatory, and holiday time necessary to supplement the workers' compensation weekly pay. For example, if workers' compensation amounts to seventy-five percent (75%) of the regular pay, the employee would be charged only with sufficient sick leave, annual leave, compensatory, or holiday time to make up the remaining twenty-five percent (25%) of regular pay; and,

(B) Such supplemental pay shall cease upon death, or when certified by competent medical authority that the employee has been determined to have a permanent partial disability or permanent total disability.

10.17 MILITARY LEAVE

All eligible employees will be excused for military leave in accordance with Section 31-2-13, Code of Alabama (1975), as amended. City employees are paid their regular salary for not more than twenty-one (21) days, (or an equivalent of 168 hours for fire suppression personnel) with no deduction made for military pay received.

An employee may, upon proper notification and certification to the immediate supervisor or Department Head, use military leave for the purpose of normal weekend drill duty.

10.18 BEREAVEMENT LEAVE (ORD. 16-266)

Bereavement leave is provided to employees in order that they may be with the family of the deceased during the immediate period following a death.

All full-time employees shall be entitled to bereavement leave with pay, not to exceed the next (3) three scheduled workdays (or twenty-four (24) scheduled work hours for fire suppression personnel), after a death in the immediate family. In the event that the funeral should be scheduled more than three (3) workdays after the death, the affected employee may elect to use the bereavement leave as the date of the funeral plus two (2) scheduled workdays either immediately preceding or following the day of the funeral.

Immediate family, for bereavement purposes, shall mean spouse, parents (including step-parents), grandparents, great-grandparents, child or step-child (including child-in-law and grandchildren), brothers or sisters (including step-brothers or step-sisters), and equivalent relations of the employee's spouse. Included within this definition are those persons who live with the family as a member of that family regardless of family relations.

Bereavement leave is paid only for regularly scheduled workdays missed and not for holidays, weekends, *etc.* An employee who is notified during his/her shift of a death in the family may leave early and count the partial day missed as the first day of paid bereavement leave, or take annual leave for the remainder of the partial day and bereavement leave for the next three (3) scheduled workdays (or next twenty-four (24) scheduled work hours, as appropriate).

10.19 JURY/ WITNESS DUTY

An employee may be excused with pay for jury duty, and will be allowed to keep any expense money received from the court. Employees are responsible for providing the Department Head with proof of jury duty and shall return to work when excused by the court, unless one (1) hour or less remains of the scheduled workday.

If an employee is required by law to appear in court as a witness (other than in an official capacity as a City employee), he/she will be allowed annual leave or leave without pay excused.

10.20 LEAVE FOR FORMAL CITY HEARING OR CITY INVESTIGATIVE REVIEW

An employee pursuing a formal grievance, or required to be present at a hearing or investigative review, shall be excused from departmental duties without loss of pay during the scheduled hearing or investigative review and shall be required to return to departmental duties immediately upon being excused. Such employee, in an off-duty status, shall have all required hours in attendance counted as hours worked.

An employee on duty requested or required to be present at any hearing or to testify before any investigative body as a witness for either party shall be excused from departmental duties. Such employee shall be required to return to department duties immediately upon being excused.

An employee in an off-duty status required by management to be present at any hearing or to testify before any investigative body as a witness for either party shall have all required hours in attendance counted as hours worked.

An employee who acts as the representative or consultant for another employee shall not be permitted to count as hours worked either on-duty or off-duty hours in attendance at hearings or in preparation for hearings. Such employee may not serve as a witness for the employee in any proceeding at which he/she serves as the employee's representative or consultant.

10.21 MISCELLANEOUS LEAVE (HAZARDOUS WEATHER/EMERGENCY CONDITIONS) (ORD. 11-385)(ORD. 13-145)(15-325)

(A) Hazardous Weather/Emergency Conditions

In the event of hazardous weather or emergency conditions, it is the responsibility of the employee to report to their regular and usual work site during their regularly scheduled work day hours or shift, unless otherwise directed by management. Allowances should be made for adequate and safe travel time to the designated work site. Employees who are unable to report to their designated work site must contact their Department Head and/or immediate supervisor. All employees are advised to conserve some accrued leave time for use as necessary due to the inability to report to the designated work site due to hazardous weather or emergency conditions.

(B) City Offices Open

In the event the city offices are open during the hazardous weather or emergency condition event, the employee may be excused from reporting to or remaining at work, if his/her presence is not absolutely essential for required operations.

In the event the employee's attendance is excused, the employee shall be charged with any accrued leave time for the absence, excluding sick leave unless deemed eligible in accordance with Section 10.7 (Sick Leave) of the Personnel Policies and Procedures. Employees excused but who do not have sufficient accrued leave will have their absence recorded as Leave Without Pay Excused. In the event an employee fails to report to or remain at work during the hazardous weather or emergency condition event, without good cause and without the permission of their Department Head and/or supervisor, the employee shall be charged Leave Without Pay Unexcused and will be subject to Section 10.14 (Leave Without Pay Unexcused) of the Personnel Policies and Procedures manual.

(C) City Offices Closed

In the event city offices are closed for the work day or shift by the Mayor or the Mayor's designated representative, due to the hazardous or emergency conditions, the employee may be excused from appearing or remaining at the designated work site, if his/her presence is considered by management to be non-essential for required operations. Department Heads shall determine which employees are essential to departmental functions and which are non-essential for hazardous or emergency conditions. Essential employees are those employees that are deemed necessary by the Department Head to work to alleviate the hazardous or emergency condition, to provide emergency services, or to protect the public safety and health during the hazardous or emergency condition.

(1) Non-Essential Personnel

When city offices are closed for the work day or shift as set forth in Section 10.21(C), regular, full-time employees, who are determined to be non-essential for required operations, and who are scheduled to work, will not be required to report to work during the hazardous weather or emergency condition event and will be paid their regular rate of pay in accordance with Section 10.11 (Administrative Leave) of the Personnel Policies and Procedures manual. After the hazardous weather or emergency condition has resolved so that city offices are no longer required to be closed and during the same work week, the Mayor may require non-essential personnel to adjust their work schedules, including working longer hours on their regular work days, weekend hours, or on other days off in order to make up the hours excused as administrative leave.

In the event, city offices are closed during the work day or shift, non-essential, regular, full-time employees, who reported to work and remained at work until the time of the decision to close, shall be compensated their regular rate of pay for the hours worked and shall receive their regular rate of pay in accordance with Section 10.11 (Administrative Leave) of the Personnel Policies and Procedures for the remainder of their work shift. Non-essential, regular, full-time employees, who were previously excused and unable to report to work on a day when city offices are closed during

the work day, will be charged with any accrued leave time for the absence, excluding sick leave unless deemed eligible in accordance with Section 10.7 (Sick Leave) of the Personnel Policies and Procedures.

(2) Essential Personnel

(a) Non-exempt

When city offices are closed for the work day or shift as set forth in Section 10.21(C), non-exempt, regular full-time employees, who are determined to be essential for required operations, will be required to report to or remain at their normal work site and shall be compensated at a five percent (5%) higher rate of pay than their established regular rate of pay for all hours worked during the hazardous weather or emergency condition event. Essential, non-exempt, regular full-time employees, who are authorized by their Department Head or designee to work in excess of the established standard workweek as described in Section 8.11 (Overtime Policy), shall be compensated in accordance with Section 8.11 (Overtime Policy) of the Personnel Policies and Procedures. For the purposes of this Section 10.21(C)(2)(a), if the overtime is worked solely due to the hazardous weather or emergency condition which was the direct cause of the closing of the city offices, then the five percent (5%) higher rate of pay shall be used for the calculation of the overtime pay in lieu of the regular rate of pay set forth in Section 8.11(Overtime Policy). In the event the essential, non-exempt employee does not report to or remain at work during the hazardous weather or emergency condition event and is excused, the employee shall be charged with any accrued leave time for the absence, excluding sick leave, unless deemed eligible in accordance with Section 10.7 (Sick Leave) of the Personnel Policies and Procedures. If the essential, non-exempt employee is excused by their Department Head during the hazardous weather or emergency condition event but does not have sufficient accrued leave, the employee will have their absence recorded as Leave Without Pay Excused. If the essential, non-exempt employee is not excused by their Department Head during the hazardous weather or emergency condition event, the employee will have their absence recorded as Leave Without Pay Unexcused and will be subject to Section 10.14 (Leave Without Pay Unexcused) of the Personnel Policies and Procedures.

(b) Exempt

When city offices are closed for the work day or shift as set forth in Section 10.21(C), exempt, regular full-time employee, who are determined to be essential for required operations, will be required to report to or remain at their normal work site and shall be compensated at a five percent (5%) higher rate of pay than their established regular rate of pay for all hours worked during

the hazardous weather or emergency condition event. Essential, exempt, regular full-time employees, who are authorized by their Department Head or designee to work in excess of their standard workweek, shall be compensated in accordance with Section 8.12(B) (Compensatory Time Policy) of the Personnel Policies and Procedures. Furthermore, any compensatory time earned pursuant to this Section 10.21(C)(2)(b) shall be converted to monetary compensation and shall be paid out to the employee at a five percent (5%) higher rate of pay than their established regular rate of pay during the pay period for which it is earned. In the event the essential, exempt, regular full-time employee does not report to or remain at work during the hazardous weather or emergency condition event and is excused, the employee shall be charged with any accrued leave time for the absence, excluding sick leave, unless deemed eligible in accordance with Section 10.7 (Sick Leave) of the Personnel Policies and Procedures. If the essential, exempt employee is excused by their Department Head during the hazardous weather or emergency condition event but does not have sufficient accrued leave, the employee will have their absence recorded as Leave Without Pay Excused. If the essential, exempt employee is not excused by their Department Head during the hazardous weather or emergency condition event, the employee will have their absence recorded as Leave Without Pay Unexcused and will be subject to Section 10.14 (Leave Without Pay Unexcused) of the Personnel Policies and Procedures.

(3) Part-time Personnel

When city offices are closed for the work day or shift as set forth in Section 10.21(C), part-time employees, unless otherwise directed by their Department Head, will not be required to report to or remain at work during the hazardous weather or emergency condition event and will be paid their regular rate of pay in accordance with Section 10.11 (Administrative Leave) of the Personnel Policies and Procedures manual only if the part-time employee was scheduled to work. In the event a part-time employee is required to report to or remain at work during the hazardous weather or emergency condition event, the part-time employee shall be compensated at a five percent (5%) higher rate of pay than their established regular rate of pay for all hours worked during the hazardous weather or emergency condition event. In the event the part-time employee fails to report to or remain at work during the hazardous weather or emergency condition event, as required by the Department Head, the employee shall be charged Leave Without Pay Unexcused and will be subject to Section 10.14 (Leave Without Pay Unexcused) of the Personnel Policies and Procedures.

In the event, city offices are closed during the work day or shift, part-time employees, who reported to work and remained at work until the time of the decision to close, shall be compensated their

regular rate of pay for the hours worked and shall receive their regular rate of pay in accordance with Section 10.11 (Administrative Leave) of the Personnel Policies and Procedures for the remainder of their work shift.

10.22 VOLUNTARY LEAVE TRANSFER PROGRAM (ORD. 06-97) (ORD. 10-922) (ORD. 11-257)

(A) Purpose

The purpose of the Voluntary Leave Transfer Program is to allow a regular, full-time employee of the City of Huntsville to transfer portions of his/her unused annual or accrued holiday leave to another regular, full-time employee of the City of Huntsville, whose absence from duty without available paid leave because of a medical emergency is (or is expected to be) at least four (4) weeks, which may be consecutive or intermittent.

(B) Definitions

Immediate Family Member: For purposes of the Voluntary Leave Transfer Program, immediate family member shall mean parent or step-parent, spouse, or child (step or adopted).

Leave Donor: The regular, full-time employee who voluntarily donates unused annual or accrued holiday leave to a leave recipient.

Leave Recipient: The regular, full-time employee who qualifies and is approved to receive donated leave under the Voluntary Leave Transfer Program.

Medical Emergency: A medical emergency is a medical condition of either the employee or the employee's immediate family member that is expected to require the employee to be absent from full-time duty for a prolonged period (minimum of four (4) weeks), consecutively or intermittently.

(C) Application to Become a Leave Recipient

Any regular, full-time employee of the City of Huntsville, entitled to use and accrue leave benefits, encountering a medical emergency, may make written application for such benefits by completing a "Leave Recipient Application Form." The employee must attach to the "Leave Recipient Application Form" a completed medical certification from his/her physician documenting the employee's medical emergency using the form WH-380-E (employee) or from the immediate family member's physician documenting the immediate family member's medical emergency using the form WH-380-F (family), Certification of Health Care Provider. The medical certification must include the following:

- (1) Identification of the nature of the illness and/or extent of injury;
- (2) Date of initial onset of this particular condition;
- (3) Anticipated date eligible to return to work on a full-time or intermittent basis; and,

(4) Anticipated hours, if any, for follow-up examinations.

Any application which does not contain all required information and attachments is subject to rejection. In addition, other pertinent information and/or documents may be requested and/or required in order for a determination to be made.

The employee shall submit the Leave Recipient Application Form and the required medical certification to his/her Department Head. The Department Head will forward the submitted information to the Director of Human Resources. If such employee is not capable of making application on his/her behalf, another employee of the City of Huntsville or a member of the employee's immediate family may make application on behalf of the employee. However, before applying on behalf of another employee, every effort must be made to obtain consent from the potential leave recipient, or in situations where this is not possible, the potential recipient's guardian.

(D) Approval of Application

Application for a potential leave recipient shall be reviewed by the Department Head and a recommendation for approval or disapproval forwarded to the Director of Human Resources. The Director of Human Resources shall review the Department Head's approval or disapproval and forward recommendation to the Mayor who shall have final authority for approving the application.

The following criteria will be used to evaluate the application to become a leave recipient:

- (1) Whether the potential leave recipient has been affected by a medical emergency; and,
- (2) The absence from duty without available paid leave, appropriate for the situation, because of the medical emergency is (or is expected to be) at least four (4) weeks, consecutively or intermittently.

In evaluating the above criteria, the authorizing officials may take into account, for purposes of approving or disapproving the application, the manner in which the employee has utilized previous leave benefits, whether or not the emergency was foreseeable, the extent to which it requires the personal attention of the potential leave recipient, and whether there are reasonable alternatives available to being absent from the job, and any other circumstances unique to the medical emergency.

The general financial status of an employee will not be considered in determining whether a "medical emergency" is likely to result in a substantial loss of income.

If the application is approved, the leave recipient will be notified. Description information will be made available to all departments for other City of Huntsville employees to consider a request for voluntary donation of leave to the account of the leave recipient.

If the application is not approved, the applicant will be notified that the application was not approved and of the reasons for its disapproval. Approval of an employee's application for leave pursuant to this Voluntary Leave Transfer Program does not constitute approval for leave pursuant to the Family and Medical Leave Policy or other leave programs which may have differing qualification criteria.

(E) Donation of Annual or Holiday Leave

The Department of Human Resources, upon final approval of the leave recipient's application by the Mayor, will distribute to each department of the City a description of the leave recipient's medical emergency which potential donors may review. Such description may have identifying information removed at the request of the leave recipient.

A regular, full-time employee, desiring to donate such authorized leave, must complete and submit to the Payroll Division a "Request to Donate Leave Form" requesting that a specified number of hours of his/her accrued annual or holiday leave be transferred from the current leave accrued to the leave account of an eligible leave recipient. A leave donor may not donate more leave than available as of the date of donation.

A leave donor may not request the return of donated hours. If the leave recipient has unused leave after the medical emergency ends, it will be restored on a pro rata basis to the leave donors who are still employed by the City of Huntsville in the manner described in subsection (H).

(F) Use of Transferred Leave

All annual leave, compensatory leave, holiday leave, and sick leave (if appropriate) accrued by the leave recipient shall first be used and depleted before using any transferred leave.

Leave privileges shall stop when the medical emergency terminates, as outlined in subsection (G).

(G) Termination of Medical Emergency

The medical emergency affecting a leave recipient shall terminate when any of the following occur:

- (1) The leave recipient's employment is terminated;
- (2) It is declared by the leave recipient or the authorizing officials that the recipient is no longer substantially affected by the medical emergency; or,
- (3) Application for disability retirement for the leave recipient is approved; or,
- (4) The leave recipient has returned to work on a regular, full-time basis.

The leave recipient may be periodically asked by his/her supervisor or an authorizing official to provide information on the status of the medical emergency to ensure that he/she continues to satisfy applicable requirements. Failure to provide the required information, as requested, may subject the employee to Section 10.14 (Leave Without Pay Unexcused) of the City of Huntsville's Personnel Policies and Procedures manual.

When the medical emergency affecting a leave recipient terminates, based upon the criteria in subsection (G), no further requests for transfer of leave to the leave recipient may be granted, and any unused transferred leave remaining to the credit of the leave recipient shall be restored to the leave donors in the manner described in subsection (H).

(H) Restoration of Transferred Annual or Holiday Leave

Any transferred leave unused by the leave recipient when the medical emergency terminates shall be restored, to the extent administratively feasible, to leave donors still employed by the City of Huntsville.

Transferred leave will be restored only when the total number of hours of unused leave equals or exceeds the number of eligible leave donors. The leave donor may not have more leave restored than the amount he/she transferred to the leave recipient.

To determine the amount of unused transferred leave to restore to each donor, the following formula will be used:

- (1) Divide the numbers of hours of unused transferred leave by the total number of hours of leave transferred to the leave recipient;
- (2) Multiply the ratio obtained in paragraph (1) by the number of hours of leave transferred by each leave donor eligible for restoration; and,
- (3) Round the results to the nearest whole hour.

(I) Prolonged Absence From Full-Time Work (Continuous or Intermittent)

Employees, who are approved for the Voluntary Leave Transfer Program, may also be deemed eligible in accordance with Section 10.8 (Family and Medical Leave) of the City of Huntsville's Personnel Policies and Procedures manual. In addition, employees who are unable to return to work on a full-time basis or who return to work on an intermittent basis shall be subject to Section 12.4 (Maximum Job Absence) of the City of Huntsville's Personnel Policies and Procedures manual.

(J) Prohibition of Coercion or Promise of Benefit

The decision to donate leave must be completely voluntary. An employee may not directly or indirectly intimidate, threaten, coerce, or promise any benefit to any other employee for the purpose of interfering with any right such employee may have with respect to donating, receiving, or using leave.

10.23 SICK LEAVE BANK

(A) Purpose

The purpose of the Sick Leave Bank (hereinafter Bank) is to provide additional sick leave hours to members of the Bank in the event of an unexpected extended critical illness, surgery, or a temporary disability due to an injury. Hours may be requested from the Bank only after the member has exhausted all accrued annual, compensatory, holiday, and sick leave. In addition, hours may be requested from the Bank only after any leave received pursuant to the Voluntary Leave Transfer Program has been depleted.

(B) Definition of Sick Leave Hours for Members

Sick leave hours from the Bank are those hours granted to a member who through an unexpected extended critical illness, surgery, injury or other temporary disability due to injury, is unable to perform the duties of his/her position. Sick leave hours from the Bank are not available for use due to the illness of a family member. Pregnancy will not be treated as a critical illness or temporary disability, except when severe illness and prolonged complications arise.

(C) Eligibility

All regular, full-time employees of the City of Huntsville with at least forty-eight (48) hours of accrued sick leave shall be eligible for membership. Probationary, full-time employees shall be eligible to participate in the Bank the month following their accumulation of forty-eight (48) hours of accrued sick leave. In order to retain their membership, all employees must participate in the annual enrollment process.

(D) Annual Enrollment Process

Any employee who is eligible to join the Bank may do so within two (2) months of the initial adoption of this Sick Leave Bank. Thereafter, any employee who is eligible to join the Bank may do so by annually contributing twenty-four (24) hours of accrued sick leave during the enrollment period. The enrollment period shall be December 1 through December 31 of each calendar year.

Employees desiring to join the Bank must complete the membership application form and submit it to the Payroll Division during the enrollment period. Once participation has been declared, employees shall be enrolled in the Bank automatically during the enrollment period until one of the following occurs:

- (1) They cancel participation on the proper form provided by the Human Resources Department;
- (2) Their employment is terminated; or,
- (3) They do not have forty-eight (48) hours of accrued sick leave during the enrollment period.

(E) Regulations Concerning Contribution of Hours

To become a member of the Sick Leave Bank, an eligible employee must contribute twenty-four (24) hours from his/her accrued sick leave. These hours will be subtracted from the member's accrued sick leave balance. The twenty-four (24) hours donated become the property of the Bank. All donations will remain in force and can not be returned even upon cancellation of a membership.

If a member decides to cancel his/her membership in the Bank, the twenty-four (24) hours contributed for annual membership remain the property of the Bank. If, at a later date, this individual wishes to rejoin the Bank, he or she may do so during the enrollment period by again donating twenty-four (24) hours of accrued sick leave.

Employees who terminate their employment with the City of Huntsville forfeit membership in the Bank at the effective date of termination. Upon reemployment, if the employee wishes to regain membership in the Bank, twenty-four (24) hours must again be donated pursuant to Section 10.23(C) herein.

Upon returning to regular duties, personnel on approved leave of absence will retain membership in the Bank. Such individuals are required to participate in the annual enrollment process by donating twenty-four (24) hours of leave in order to maintain their membership.

(F) Granting of Sick Leave from the Bank

The granting of sick leave hours from the Bank is limited to all hours donated to the Bank which have not been previously granted for use to a member of the Bank. Sick leave hours will be granted to members only after they have experienced twenty-four (24) hours of unpaid leave as a result of their unexpected extended critical illness, surgery, or temporary disability due to an injury.

Sick leave hours from the Bank will not be granted for conditions known to exist by the employee on or before the date of joining the Bank.

Sick leave hours from the Bank will be granted only after the member has exhausted all accrued annual, compensatory, holiday, sick, and donated leave. Hours from the Bank shall be granted only for unexpected extended critical illness, surgery, or temporary disability due to an injury which necessitates an absence from work for the equivalent of twenty (20) working days or longer.

The maximum number of Bank hours that may be granted to an employee during a calendar year will be two hundred and forty (240) hours. If a member who has received less than two hundred and forty (240) hours from the Bank returns to work and then is ill again with the same or a different eligible illness, he/she may apply to the Bank for additional hours needed, the total not to exceed two hundred and forty (240) hours per calendar year.

Sick leave hours from the Bank may be used to supplement other benefits available to the member under the Workers' Compensation Act or other policies of the City, but shall not exceed the member's daily salary.

All unused sick leave hours in the Bank at the end of the calendar year shall be carried over to the next calendar year.

A member shall lose the right to use the benefits of the Bank when one of the following occurs:

- (1) The member terminates employment with the City of Huntsville;
- (2) The member cancels his/her membership in the Bank;
- (3) The contributor is on approved leave of absence;
- (4) When the member has used two hundred and forty (240) hours from the Bank during a calendar year; or,
- (5) When all sick leave hours donated to the Bank have been depleted from the Bank.

(G) Procedures for Applying for Sick Leave Hours

Requests for donations from the Bank are restricted to employees who are active members of the Bank. Should such a member have an unexpected extended critical illness, surgery, or a temporary disability due to an injury necessitating the need for additional hours after all accumulated leave and donated leave hours have been used, the member may submit to the Director of Human Resources a written request for hours from the Bank.

A member who requests hours from the Bank must submit, to the Director of Human Resources, contemporaneously with his/her request for hours from the Bank, the following:

- (1) A statement signed by the member attesting to the fact that the condition which necessitated the request for hours from the Bank was unknown to the employee at the time he/she became a member of the Bank; and,
- (2) A statement from his/her physician which includes the following:
 - (a) Identification of the nature of the illness and/or extent of injury;
 - (b) Date of initial onset of this particular condition;
 - (c) Anticipated date eligible to return to work on a full or part-time basis;
 - (d) Verification that the condition is not a pre-existing condition; and,
 - (e) Anticipated hours, if any, for follow-up examinations.

If a member is unable to file an application for sick leave hours from the Bank, another employee of the City of Huntsville or a member of the employee's immediate family may make application on behalf of the employee. However, before applying on behalf of another employee, every effort must be made to obtain consent from the leave recipient, or in situations where this is not possible, the recipient's guardian.

(H) Approval of Application

The approval or rejection of a member's application for hours from the Bank will be the responsibility of the Director of Human Resources, subject to the approval of the Mayor of the City of Huntsville. The Director of Human Resources may refuse to consider an application that does not contain the all the required information.

Approval of an employee's application for leave pursuant to this Section 10.23 does not constitute approval for leave pursuant to the Family and Medical Leave Policy or other leave programs which may have differing qualification criteria.

10.24 CONVERSION OF LEAVE TIME FOR FIRE SUPPRESSION PERSONNEL

(A) Fire suppression personnel working shift work consisting of 2,912 hours per year who transfer to non-fire suppression positions (non-shift work) consisting of 2,080 hours per year shall have their accumulated annual, holiday, and sick leave converted at the time of the transfer by application of the following formula:

$$\# \text{ of leave hours (shift work) multiplied by } 5 = \text{Product}$$

$$\text{Product divided by } 7 = \# \text{ of leave hours (non-shift work)}$$

Fire suppression personnel (shift work) donating leave pursuant to the Voluntary Leave Transfer Program to non-fire suppression personnel (non-shift work) shall have the donated leave converted according to this formula.

(B) Personnel working non-shift working consisting of 2,080 hours per year transferring to fire suppression positions working shift work consisting of 2,912 hours per year shall have their accumulated annual, holiday, and sick leave converted at the time of transfer by application of the following formula:

$$\# \text{ of leave hours (non-shift work) multiplied by } 7 = \text{Product}$$

$$\text{Product divided by } 5 = \# \text{ of leave hours (shift work)}$$

Non-fire suppression personnel (non-shift work) donating leave pursuant to the Voluntary Leave Transfer Program to fire suppression personnel (shift work) shall have the donated leave converted according to this formula.

10.25 EXAMINATIONS

Time for taking promotional examinations administered by or through the Human Resources Department shall be administratively authorized or approved and will not result in a charge to any kind of leave or in loss of basic salary to City of Huntsville employees. Such examinations may be administered while a candidate is on off-duty status. Such candidate, in an off-duty status, shall have the hours allotted to complete the examination counted as hours worked.

SECTION 11

PERFORMANCE EVALUATION

11.1 POLICY

The City of Huntsville recognizes the need for a performance evaluation system to improve productivity, help employees make constructive changes, open lines of communication, and pursue organizational excellence through employee development. The performance evaluation system should:

- (A) Assess an employee's strengths, weaknesses, and potential for growth;
- (B) Encourage and guide the employee's development of his/her special skills and work interests;
- (C) Assure the granting of pay increases and consideration for more complex work based on merit;
- (D) Provide a method of improving operational programs through employee input; and,
- (E) Identify training needs.

11.2 RESPONSIBILITIES

The Director of Human Resources shall be responsible for the establishment of the employee performance evaluation system. All formal performance evaluations shall be made in writing on forms provided by or approved by the Human Resources Director. Employee evaluation is the continuing day-to-day responsibility of the employee's immediate supervisor.

11.3 TYPES OF PERFORMANCE REVIEWS

(A) In General

The number and types of performance reviews conducted during the year may vary with the specific circumstances of the situation. Such reviews may range from informal evaluations of an employee by a supervisor to formal written performance evaluations. Either the supervising official or the employee may initiate an informal review or a formal performance review at any time. Annually and prior to effecting a step increase, the supervisor should make a formal written evaluation of the employee's performance.

(B) Certification for Step Increase

Prior to an employee's eligibility for a step increase, the supervisor will review the employee's overall work performance and submit a written evaluation to the employee's Department Head. Upon submission of the request for the step increase, the Department Head will certify that the employee is performing at a satisfactory level of competence for his/her classification. This certification will serve as the basis for granting any authorized step increase.

(C) Annual Employee Evaluations

The annual formal performance evaluation is the summary of the supervisor's observations of the employee during the past year, and a summary of the performance in terms of a variety of job-related factors. The evaluation will also include a plan to identify and develop strengths, identify and improve weaknesses, and record observations of work performance. Proper use of the performance evaluation serves as a means for identifying work requirements and keeping employees and supervisors informed of them, identifying training needs, improving individual performance, recognizing outstanding accomplishments or unsatisfactory performances, helping to strengthen employee-supervisor relationships, and emphasizing the employee's contribution to departmental functions.

The supervisor and employee will discuss specific job-related behaviors evidenced by the employee during the rating period. The supervisor and employee should also discuss the employee's career development plans, special work interests, projects or assignments of interest, and particular training interests or needs. The employee's general observations of the department's programs and especially suggestions for improving assignments, functions, and work procedures should be particularly encouraged. The employee should have the opportunity to discuss any other points and may attach comments to the supervisor's evaluation. The employee should then certify that he/she has reviewed the evaluation and that it has been discussed with him/her. The evaluation will then be forwarded to the Director of Human Resources to become part of the employee's personnel record.

11.4 EVALUATION PROCESS

An assessment of employee performance shall be made as of the employee's anniversary date by the employee's supervisor at that time. If an employee serves for significant periods in more than one (1) position during an appraisal period, the supervisor of each position occupied may be called upon to provide performance information for consideration in the final assessment of performance. If it becomes apparent during the appraisal period that any aspect of an employee's performance is less than "Satisfactory," the supervisor shall schedule a performance review with the employee to:

- (A) Review progress to date;
- (B) Identify and resolve problems that constitute obstacles to performance;
- (C) Adjust priorities to accommodate the impact of new requirements, schedule changes, etc; and,
- (D) Provide interim feedback on performance and examine ways to improve existing level of performance.

The number of performance reviews conducted during the year may vary with the specific circumstances of the situation. Such a review will probably be desirable during the eighth or ninth month of the appraisal period to allow for a final update prior to the final assessment. A performance review may be initiated at any time during the appraisal period by either the supervising official or the employee. The supervising official should do so to advise the employee

of performance trends, and to identify and resolve job-related problems in a timely manner. The employee, on the other hand, should request a review when needed to review progress and to alert the supervising official early on of any circumstances that may impact his/her ability to achieve the desired level of performance.

11.5 NOTIFICATION OF UNACCEPTABLE PERFORMANCE

If a supervisor is considering a less than "Satisfactory" rating overall on an employee's formal performance evaluation, the employee shall be informed, at least ninety (90) days prior to the final evaluation, of any factor that raises a question about his/her work being of a satisfactory level of competence. The employee shall also be advised that a less than "Satisfactory" rating will result in withholding, if one is due, of a step increase in salary. The above ninety (90) day notification period does not apply if questions arise, or circumstances develop, within that ninety (90) day period which would not permit such notification.

11.6 UNACCEPTABLE EVALUATION

Should an employee receive an overall rating of less than "Satisfactory" on the formal performance evaluation the employee shall be denied any authorized step progression in salary, and shall not be eligible for a step progression in salary until a rating of "Satisfactory" is rendered.

An employee receiving an overall rating of less than "Satisfactory" shall be re-evaluated again within three (3) months. Such employee shall be re-evaluated for a third time within six (6) months. If, on the third review and evaluation, the employee again receives less than a "Satisfactory" evaluation, such employee shall be subject to termination, as provided in Section 13.

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 12

SEPARATION

12.1 RESIGNATION

(A) When an employee terminates employment with the City of Huntsville, the employee is expected to give his/her immediate supervisor at least two (2) weeks written notice before leaving the job. Failure to give adequate notice before leaving a job may influence consideration for reemployment and/or being recommended for employment by others.

(B) Unauthorized or unreported absence from work for a period of three (3) consecutive working days (or the equivalent for Fire Suppression Personnel) may be considered by the Department Head as a resignation without notice.

12.2 RETIREMENT

Retirement is the separation of an employee in accordance with the provisions of the Retirement System of Alabama under which the employee is eligible to begin receiving benefits. Any employee considering retirement should contact the Payroll Division ninety (90) days prior to the anticipated retirement date to ensure timely receipt of eligible benefits.

12.3 DISMISSAL

(A) Disciplinary Action

Full-time employees who have attained regular, full-time status shall be entitled to the disciplinary procedures established in Section 13, "Conduct and Disciplinary Process", of this manual.

(B) Medical Disqualification

Dismissals for medical reasons must be approved by the Department Head, the Director of Human Resources, and the Mayor.

12.4 MAXIMUM JOB ABSENCE (ORD. 10-922)

(A) Without regard to other provisions of the Personnel Policies and Procedures Manual, an employee who uses at least 2080 hours (or the equivalent for fire suppression employees) of leave of any kind, excluding administrative leave and military leave, during any fifteen (15) month period shall be dismissed, subject to compliance with federal and state law.

(B) Without regard to other provisions of the Personnel Policies and Procedures Manual, an employee who does not perform the essential functions of his/her assigned position classification due to a physical or mental impairment for at least 1600 hours (or the equivalent for fire suppression employees) during any twelve (12) month period shall be dismissed, subject to compliance with federal and state law.

Prior to dismissing an employee pursuant to this subsection, every effort will be made to transfer the employee to another available position, at the same or

lower grade, for which the employee has transferable knowledge, skills, and abilities and for which the employee meets the minimum qualifications.

(C) If an employee is dismissed under this provision, he/she will be compensated in accordance with Section 8.18 of this policy.

12.5 REDUCTION IN FORCE OR POSITION ABOLISHMENT

No action will be taken under provisions of this subsection without prior approval of the Mayor and City Council.

In the event of a reduction in force by reason of fiscal restraint or because the necessity for a position (or positions) no longer exists, the reduction of employees within each job classification shall be determined first by the type of appointment in the following order: temporary, part-time, probationary, and then regular, full-time. Regular, full-time employees will not be subject to layoff until all non-regular, full-time employees occupying the same type of position have been dismissed. A reduction in force may occur without filing written disciplinary charges against the employee or employees affected thereby and no such employee or employees shall have a right to a hearing prior to dismissal resulting from a reduction in force. In no case shall reduction in force be construed as a disciplinary dismissal.

Both performance and length of service shall be considered in the decision making process. However, performance shall be the primary factor.

Each Department Head should first make a determination as to the number of positions in each classification that must be released to operate within the budget allocation. Such determination must be made as to each individual classification within the department and/or division.

After a determination is made as to the number of positions in each classification to be released, the Department Head should, after considering the seniority and performance of each individual employee, arrive at a list of persons necessary to be laid off.

Before an employee is laid off, the Department of Human Resources shall make efforts to transfer the employee to another department, if such action would permit the attainment of reduction objectives.

(A) Notice

No position abolishment, layoff or non-disciplinary reduction in pay, as provided in Section 9.4(B), to a regular, full-time employee shall occur without at least two (2) weeks prior notice to the employee involved. Additional notice shall be provided to employees involved in a reduction in force as required by federal or state law.

All planned position abolishments shall be reported to the Director of Human Resources by the Department Head, in writing, at least four (4) weeks prior to the intended date of implementation.

(B) Procedures

Any employee who shall be laid off pursuant to these rules shall have his/her name placed on a preference list by the Director of Human Resources and, shall be given preferential consideration for any future vacancy in any classification requiring similar qualification criteria at the same or lower grade where the employee can meet the minimum qualifications for the vacant position. The Department Head shall determine the rank of preference among several such listed applicants based upon considerations including seniority, work record, and past performance reviews.

If no vacancy exists at the time of implementation of a layoff for which the employee can meet the minimum qualifications, or if the employee declines to accept an existing vacancy at the time of a layoff, the employee's name shall remain on the preference list for a period of one (1) year. If an employee twice declines to accept an existing vacancy, the employee will no longer receive preferential consideration pursuant to the provisions of this section.

Employees who accept positions in a lower grade are subject to the provisions of Section 9.4(B) in receiving preferential consideration for future vacancies at their original grade level.

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 13

CONDUCT AND DISCIPLINARY POLICY

13.1 EMPLOYEE CONDUCT

Employees of the City of Huntsville are expected to maintain high standards of cooperation, efficiency, and economy in their work. Each employee is expected to display conduct both on and off the job in such a manner as to reflect credit on both the employee and the City. The maintenance of high standards of honesty, integrity, and conduct by City employees is essential to assure the proper performance of City business and to maintain the confidence of the citizens.

13.2 CORRECTIVE ACTION

When work habits, attitude, productivity, or personal conduct of an employee falls below a desirable standard, supervisors should point out the deficiency at the time it is observed. Warning in sufficient time for improvement should precede formal disciplinary action, but nothing in this section shall prevent formal action whenever the best interest of the City of Huntsville requires it.

13.3 EMPLOYEE AND SUPERVISOR RESPONSIBILITIES

(A) It is the duty of each employee to correct any deficiency in performance, conduct, or attitude on their own initiative or when called to such employee's attention, and to make every effort to avoid conflict with the personnel rules and regulations.

(B) It is the responsibility of every supervisor to discuss improper or inadequate performance with the employee in order to correct deficiencies and to avoid the need to exercise disciplinary action. However, failure of a supervisor to carry out this responsibility shall not preclude the discipline of an employee. Where appropriate, an employee should be disciplined in an increasingly progressive manner, the step of progression normally being:

- (1) Oral Reprimand
- (2) Written Reprimand
- (3) Imposed Probation
- (4) Suspension
- (5) Termination

In certain circumstances, demotion may be considered in lieu of termination.

The factors that may be considered by a Department Head in determining the appropriate level of discipline may include, but are not limited to, the circumstances giving rise to the disciplinary action, the employee's work history, length of employment, current job performance, and the existence of past official disciplinary actions. A Department Head may, when making or reviewing a disciplinary decision, review and consider the past discipline of an employee, whether or not that employee was working in another division or department of the City at the time of being disciplined. While progressive discipline should be used as a constructive measure for the correction of the

conduct of an employee, where the nature and severity of the offense dictate otherwise, any of the progressive steps noted above may be omitted.

(C) When infractions do occur, it shall be the policy of the City of Huntsville that its disciplinary procedure be specific and structured so that the type of action involved, and not the individual, is the controlling factor in determining the level of discipline required.

(D) Where determined by the Mayor to be in the best interest of the City, the Mayor may appoint, in writing, a Department Head, other than the employee's Department Head, to investigate alleged misconduct on the part of the employee; and, if determined to be warranted, to pursue disciplinary charges against the employee in accordance with the policies and procedures contained in this section. In such circumstances, if it is determined that there is cause for discipline after an informal hearing, where appropriate, or as a result of a Finding of Facts by a Hearing Officer, then the Mayor or the appointed Department Head, subject to the approval of the Mayor, may impose discipline on the employee.

13.4 DISCIPLINARY POLICY

An employee may be placed on imposed probation, suspended, demoted, or terminated in accordance with this Conduct and Disciplinary Policy. This policy and the procedures set forth herein shall be applicable only to regular, full-time employees and shall not be afforded to probationary employees, temporary employees, part-time employees, or special status employees.

As a non-disciplinary measure, an employee may be placed on Administrative Leave, in accordance with Section 10.11 herein, if disciplinary action is being considered by the Department Head.

13.5 CAUSES FOR DISCIPLINARY ACTION

The following are examples of causes for disciplinary action, but are in no way restrictive as to the reasons which may form a valid basis for disciplinary action:

(A) Indictment for, conviction of, or the commission of, an act which would constitute, (1) a felony or (2) a crime involving moral turpitude; conviction of, or the commission of an act which would constitute, a misdemeanor which reflects unfavorably upon the employee's character or his/her effectiveness in the job;

(B) Conduct unbecoming an employee, while on or off duty, which tends to bring discredit upon the City and its employees; which adversely affects the morale or efficiency of, or public respect for, the employee's assigned department; or which otherwise threatens order, safety, or health;

(C) Incompetence, malfeasance, or misfeasance in the performance of duties;

(D) Neglect or inefficiency in the performance of duties;

(E) Violation of the City of Huntsville and/or departmental rules and regulations;

- (F) Acts of insubordination, including, but not limited to, refusal to obey legitimate orders, delay or failure to carry out assigned work, disrespect, insolence, and like behavior;
- (G) Tardiness;
- (H) Unauthorized absences;
- (I) Unauthorized use, misappropriation, destruction, theft, or conversion of public property or private property;
- (J) Neglect or carelessness resulting in damage to public property, or injury to another human being, and/or failure to report accidents or personal injury;
- (K) Political activities in violation of the legal regulations governing municipal employees;
- (L) Disregard of safety rules and regulations;
- (M) Falsification, misrepresentation, or suppression of any information including, but not limited to, employment application, employee reports, records, or time cards required by or supplied to any governmental agency including, but not limited to, the City of Huntsville;
- (N) Refusal to fully and truthfully answer questions of a supervisor or other designated individual during an inquiry, interrogation, hearing, or court proceeding;
- (O) Threatening, intimidating, coercing, or otherwise interfering with other employees in the execution of their duties;
- (P) Possessing, drinking, using, or being under the influence of alcoholic beverages or drugs while on duty or otherwise violating the Drug and Alcohol Policies contained in Section 18 of this manual;
- (Q) Unauthorized access to, disclosure of, or inappropriate use of protected health information or other privileged or confidential information;
- (R) Wrongful use of sick leave or failure to otherwise comport with the Sick Leave Policy contained in Section 10.7 of this manual;
- (S) Defamation;
- (T) Harassment as defined by Section 3.3 of another city employee or of a private citizen while on duty;
- (U) Submission of fraudulent claims;
- (V) Unauthorized possession, storage, or concealment of firearms, other weapons, explosives, or other dangerous materials on an employee's person or in City desks, file cabinets, lockers, vehicles, or in any other City property or equipment;

(W) Sleeping during duty/work hours;

(X) Failure to obtain or maintain a license or certificate required as a condition of employment;

(Y) Gambling or gambling related conduct during work hours or on City property, including, but not limited to, inviting or soliciting a gambling wager and attempting to collect or collecting on a gambling debt;

(Z) Violations of Procedures and Standards Relating to City-Owned Information Technology Equipment as provided in Section 22.2 of this Personnel Manual; and,

(AA) Habitual, or repetitive, acts of misconduct, violations of policy, and/or infractions of rules and regulations.

13.6 TYPES OF DISCIPLINARY ACTION

(A) Oral Reprimand

The Department Head, or other designated official, may orally reprimand an employee when the employee fails to maintain desirable standards or violates the policies, rules, or regulations of the department, or the City of Huntsville. Whenever grounds for disciplinary action exist and the Department Head, or other designated official, determines that more severe action is not necessary, the Department Head, or other designated official, may orally communicate to the employee the Department Head's, or other designated official's, observation of the deficiency or misconduct and the required corrective action. Written notice of the oral reprimand should be maintained in the departmental file of the employee, however, it is not necessary that such notice be forwarded to the Human Resources Department.

(B) Written Reprimand

The Department Head, or other designated official, may issue an official written reprimand to an employee, if the seriousness of the offense calls for action greater in severity than an oral reprimand, or if previous counseling discussions or oral reprimands have not produced the desired result. In making a determination as to the type of disciplinary action warranted, the Department Head, or other designated official, will proceed as follows:

(1) Investigation and discussion with employee

Before any action is taken against an employee, the Department Head, or other designated official, will make such inquiry or investigation of the facts in the case as he/she considers necessary. The employee will be advised of the reasons for considering disciplinary action and allowed the opportunity to respond.

(2) Decision

After full consideration of the facts, the Department Head will take one of the following actions:

(a) If the facts of the case do not support the allegation, the employee shall be notified orally of such decision and advised that the matter is considered closed;

(b) If the facts of the case support the allegation, but the Department Head, or other designated official, believes a written reprimand is not necessary to correct the situation, the Department Head, or other designated official, shall conclude the matter by a discussion with the employee. During the discussion, the employee shall be reprimanded orally and warned that in any future case stronger action may be required;

(c) If the facts of the case support the allegation, and the Department Head, or other designated official, believes a written reprimand is sufficient to correct the situation, the employee shall be notified of the decision by a written reprimand; or,

(d) If the facts of the case support the allegation, but the Department Head, or other designated official, believes a written reprimand is not sufficient to correct the situation, stronger disciplinary action shall be commenced by the Department Head.

(3) Notice of Written Reprimand

The written reprimand should be in writing, dated, and delivered to the employee. The notice of written reprimand should contain the following information:

(a) Nature of the action;

(b) Specific reason(s) for the written reprimand;

(c) References to any discussion(s) held with the employee, including the date, time, and place;

(d) The employee's explanation as given during the discussion(s);

(e) Conclusions;

(f) Warning that future infractions could result in more severe disciplinary action; and,

(g) Where appropriate, recommendations for corrective action.

A copy of the written reprimand should be placed in the employee's departmental file with a copy to the Human Resources Department for maintenance in the employee's personnel file. In addition, within three (3) days of the receipt of a written reprimand, an employee may submit to his/her Department Head a written response to the written reprimand. Such response shall be placed in the departmental file with a copy to the Human Resources Department for maintenance in the employee's personnel file.

(4) Rights, privileges, benefits as result of a Written Reprimand

A written reprimand shall not affect the rights, privileges, or benefits of an employee to which he/she may have been entitled prior to such discipline; however, a Department Head is not precluded from considering the disciplinary action during future promotional processes. Further, the restoration of rights as provided for herein shall not mean that a Department Head is precluded from considering the existence of the reprimand in future disciplinary actions against the employee.

(C) Imposed Probation

The Department Head may place an employee on imposed probation in lieu of or in conjunction with another form of disciplinary action, if the seriousness of the offense calls for action greater in severity than an oral or a written reprimand, or if previous counseling discussions or oral or written reprimands have not produced the desired result. Imposed probation may be used as discipline where the employee demonstrates substandard performance, poor attendance, poor compliance with City of Huntsville and/or departmental rules and regulations, or in other instances of misconduct as determined to be appropriate by the Department Head. An employee may be placed on imposed probation, for cause, for no more than six (6) months, after notice and hearing before the Department Head, or other designated officials.

(1) Notice of Hearing

An employee shall be given advance written notice of a departmental hearing, which shall include the date of the hearing, the grounds for the proposed disciplinary action, and a statement that the employee shall be allowed, during the hearing, to present an oral or written statement in his/her defense. (The employee shall be given at least twenty-four (24) hours advance written notice of the hearing.) A copy of the notice shall be filed with the Department of Human Resources for placement in the employee's personnel file.

(2) Hearing

The hearing shall be conducted informally before the Department Head, and any supervisory personnel deemed necessary by the Department Head, at the time and place designated in the notice. Any attending officials may, at their sole discretion, question the employee. At the hearing, the employee may submit a written response or may respond orally to the allegations of misconduct. If the employee presents a written response, a copy of such shall be filed in the Department of Human Resources for placement in the employee's personnel file.

Should the employee elect to waive the right to a hearing, such waiver shall be in writing and signed by the employee. Waiver of the right to a hearing, or the failure of the employee to waive his/her right to a hearing, shall not prevent the Department Head from proceeding with appropriate disciplinary action based on the information before him or her.

(3) Decision

After full consideration of the facts, the Department Head will take one of the following actions:

(a) If the facts of the case do not support the allegation, the employee shall be notified orally of such decision and advised that the matter is considered closed;

(b) If the facts of the case support the allegation, but the Department Head, or other designated official, believes imposed probation is not necessary to correct the situation, the Department Head, or other designated official, shall conclude the matter by a discussion with the employee. During the discussion, the employee shall be reprimanded orally or issued a written reprimand, and warned that in any future case stronger action may be required;

(c) If the facts of the case support the allegation, and the Department Head, or other designated official, believes imposed probation is sufficient to correct the situation, the employee shall be notified of the decision; or,

(d) If the facts of the case support the allegation, but the Department Head, or other designated official, believes imposed probation is not sufficient to correct the situation, stronger disciplinary action shall be commenced by the Department Head.

(4) Notice of Imposed Probation

The notice of imposed probation should be in writing, dated, and delivered to the employee. The notice should contain:

(a) Nature of the action;

(b) Specific reason(s) for the imposed probation;

(c) References to any discussion(s) held with the employee, including the date, time, and place;

(d) The employee's explanation as given during the discussion(s);

(e) Conclusions;

(f) Warning that future infractions could result in more severe disciplinary action; and,

(g) Where appropriate, recommendations for corrective action.

A copy of the imposed probation notice shall be filed with the Department of Human Resources and placed in the employee's personnel file.

(5) Rights, privileges, benefits as result of Imposed Probation

During the term of the imposed probationary period, all paid leave will continue to accrue as provided in Section 10 of this policy. However, the Department Head may deny an employee who is on imposed probation the use of his/her accrued annual, compensatory, or deferred holiday leave. In addition, during the term of an imposed probationary period, the employee is not entitled to a step progression in salary.

At the end of a satisfactory completion of the imposed probationary term, which includes the receipt of a "satisfactory" or better performance evaluation, the employee shall be considered in good standing with the department and as an employee for the City of Huntsville, and shall be restored to all rights, privileges, and benefits he/she had prior to said period of imposed probation; provided, however, the restoration of all rights, privileges, and benefits shall not preclude the consideration of the disciplinary action during future promotional processes. Further, the restoration of rights as provided for herein shall not mean that a Department Head is precluded from considering the existence of the imposed probation in future disciplinary actions against the employee.

Failure of an employee to satisfactorily complete an imposed probationary term may result in more severe disciplinary action, as provided in this Section 13.

(D) Suspension for Ten Workdays or Less

An employee may be suspended from duty and pay for a period of time not to exceed ten (10) workdays (or the equivalent thereof) for cause, after notice and a departmental hearing before the Department Head, who may request that other supervisory officials participate.

(1) Notice of Hearing

An employee shall be given advance written notice of a departmental hearing, which shall include the date of the hearing, the grounds for the proposed disciplinary action, and a statement that the employee shall be allowed, during the hearing, to present an oral or written statement in his/her defense. (The employee shall be given at least twenty-four (24) hours advance written notice of the hearing.) A copy of the notice shall be filed with the Department of Human Resources for placement in the employee's personnel file.

(2) Hearing

The hearing shall be conducted informally before the Department Head, and any supervisory personnel deemed necessary by the Department Head, at the time and place designated in the notice. Any attending officials may, at their sole discretion, question the employee. At the hearing, the employee may submit a written response or may respond orally to the allegations of misconduct. If the employee presents a written response, a copy of such shall be filed in the Department of Human Resources for placement in the employee's personnel file.

Should the employee elect to waive the right to a hearing, such waiver shall be in writing and signed by the employee. Waiver of the right to a hearing, or the failure of the employee to waive his/her right to a hearing, shall not prevent the Department Head from proceeding with appropriate disciplinary action based on the information before him or her.

(3) Decision

After full consideration of the facts, the Department Head will take one of the following actions:

(a) If the facts of the case do not support the allegation, the employee shall be notified orally of such decision and advised that the matter is considered closed;

(b) If the facts of the case support the allegation, but the Department Head, or other designated official, believes a suspension is not necessary to correct the situation, the Department Head, or other designated official, shall discuss the matter with the employee. During the discussion, the employee shall be reprimanded orally, issued a written reprimand, or placed on imposed probation; and, the employee shall be warned that in any future case, stronger action may be required;

(c) If the facts of the case support the allegation, and the Department Head, or other designated official, believes a suspension of ten (10) work days or less is sufficient to correct the situation, the employee shall be notified of the decision. In addition, such an employee may also be notified that he/she is placed on imposed probation; or,

(d) If the facts of the case support the allegation, but the Department Head, or other designated official, believes a suspension of ten (10) work days or less is not sufficient to correct the situation, stronger disciplinary action shall be commenced by the Department Head.

(4) Notice of Suspension

The notice of suspension should be in writing, dated, and delivered to the employee. The notice should contain:

(a) Nature of the action;

(b) Specific reason(s) for the suspension;

(c) References to any discussions held with the employee, including the date, time, and place;

(d) The employee's explanation as given during the discussion(s);

(e) Conclusions;

(f) Warning that future infractions could result in more severe disciplinary action; and,

(g) Where appropriate, recommendations for corrective action. The effective date of the suspension, shall not be less than seven (7) calendar days after the delivery of the decision by the Department Head.

A copy of the suspension notice shall be filed with the Department of Human Resources and placed in the employee's personnel file.

(5) Rights, privileges, benefits as result of Suspension

At the time the suspended employee returns to work, said employee shall be considered in good standing with the department and as an employee for the City of Huntsville, and shall be restored to all rights, privileges, and benefits he/she had prior to said suspension, subject to the modifications of employment based on imposed probation, if applicable. Provided, however, the restoration of all rights, privileges, and benefits shall not preclude the consideration of the disciplinary action during future promotional processes. Further, the restoration of rights as provided for herein shall not mean that a Department Head is precluded from considering the existence of the suspension in future disciplinary actions against the employee.

(E) Suspension for More than Ten Working Days, Demotion, or Dismissal

An employee, for cause, may be suspended without pay for more than ten (10) working days, demoted, or dismissed, after notice and a formal hearing. (This section does not apply to demotions pursuant to Section 9.4 (A)(3).) The Department Head shall notify the affected employee in writing of the charges against him/her. A copy of the notice shall be furnished to the Director of Human Resources. The Director of Human Resources shall cause a hearing date to be set within thirty (30) days before an impartial Hearing Officer selected from a pool of eligible persons designated by the City Council.

The affected employee shall be notified in writing of the date, time, and place of the hearing, the charges against him/her, that he/she has the right to representation, and the right to present evidence before the Hearing Officer. The employee shall be given not less than ten (10) days notice of the initial hearing date, time, and place, unless the employee knowingly and willingly waives such notice, in writing. Such waiver is discouraged by this policy and should be permitted only where the notice requirement would work a hardship on the employee.

Prior to the scheduled hearing, the Department Head may revise, amend, or withdraw the Request for Formal Hearing and, in the case of a revision or amendment, either the Department Head or the employee may request that the Hearing Officer continue the hearing to a later date. The Hearing Officer has the discretion to grant or deny such a request. In the event of a withdrawal of a Request for a Formal Disciplinary Hearing, the Department Head may reinstate the action at any time by filing a subsequent Request for Formal Disciplinary Hearing with any revisions or amendments deemed appropriate by the Department Head.

At a formal hearing, all testimony shall be given under oath and recorded but not transcribed unless a court of competent jurisdiction orders a review. The

recording shall be made under the supervision of the Director of Human Resources. No other tape or video recordings of the hearing will be permitted. The Hearing Officer shall carefully consider all testimony, evidence, and exhibits offered in support or denial of such charges, and shall certify a Finding of Facts, in accordance with Section 13.7, to the Director of Human Resources. The Director of Human Resources shall deliver a copy of the certified Finding of Facts to the Department Head and the affected employee.

The Mayor or the Department Head shall determine whether the facts, as found by the Hearing Officer, are cause for discipline, and shall discipline the affected employee in an appropriate manner consistent with such Finding of Facts; and, when appropriate, consistent with the provisions of Section 18, Drug and Alcohol Policies. In the event that a Department Head recommends termination as the disciplinary action, the approval of the Mayor must be obtained. Any disciplinary action imposed, with the reason(s) therefore, shall be in writing and delivered to the affected employee, with a copy delivered to the Director of Human Resources for placement in the employee's personnel file. The effective date of a disciplinary action, except for termination, shall not be less than seven (7) calendar days after the delivery of the decision by the Mayor or the Department Head.

Such disciplinary action shall be reviewed by the City Council, as soon as is practicable, upon application by the affected employee. The application shall be made in writing to the Director of Human Resources within seven (7) days of the delivery of the decision to the affected employee and shall state the reason(s) the employee believes the disciplinary action taken is inconsistent with the Finding of Facts made by the Hearing Officer. Failure of the employee to state said reason(s) shall be a cause for rejection of the appeal.

The Director of Human Resources shall immediately notify the President of the City Council when an appeal has been filed. The City Council shall notify the Director of Human Resources of the date, time, and place set for the review hearing. The Director of Human Resources shall then notify the affected employee and his/her Department Head of same. The employee shall acknowledge, in writing, receipt of the notice to the Director of Human Resources on a form provided by the Director of Human Resources. If all City Council members are not present on the date and time scheduled for the hearing, the employee or Department Head shall, upon request, be entitled to a continuance until such time as all City Council members are present.

At the time and place scheduled for the hearing, the City Council shall consider such proof and argument presented by the parties as to whether the disciplinary action is inconsistent with the Finding of Facts as certified by the Hearing Officer. The certified Finding of Facts made by the Hearing Officer shall be accepted by the City Council as being true and accurate. The City Council shall render a decision within thirty (30) days after the hearing. The City Council may affirm or alter, either by imposing greater or lesser degree of discipline upon the employee, the disciplinary action taken against the employee. In order to alter the disciplinary action taken, a majority of those members elected to the City Council must be reasonably satisfied from the evidence presented that such action was not appropriate. If the City Council is unable, by a majority of those members elected to the City Council, to alter the disciplinary action taken, then the decision of the Department Head or the Mayor regarding the disciplinary action shall stand unmodified.

13.7 HEARING OFFICER RESPONSIBILITIES

The City of Huntsville shall use local attorneys licensed to practice law in the State of Alabama as Hearing Officers in formal disciplinary proceedings. No person shall participate as the Hearing Officer in any matter if such attorney has personal or financial interest therein.

The Hearing Officer shall hear evidence presented in support or denial of the charges against the employee subject to disciplinary action, and render a certified Finding of Facts regarding the specific charges, within ten (10) calendar days, to the Director of Human Resources. Failure of the Hearing Officer to submit the Finding of Facts within the prescribed time shall not affect the outcome of the disciplinary action nor confer on the employee the right to invalidate any disciplinary action. The Hearing Officer shall decide issues of fact, only. The Hearing Officer shall not determine if the facts, as found by such Hearing Officer, constitute a violation or violations of the policies contained in this manual. The Hearing Officer shall not determine if the findings are cause for discipline or the degree of discipline, if discipline is warranted.

13.8 REQUEST FOR RECONSIDERATION

Within three (3) business days from the receipt of the Finding of Facts, the affected employee or the Department Head may submit to the Director of Human Resources a written request for a reconsideration based upon alleged errors in the Finding of Facts or when it is alleged that the Hearing Officer has exceeded his/her authority by drawing conclusions as to the disciplinary violation(s) or outcome. The request shall state with specificity the basis for the request and, if a factual error is alleged shall limit discussion to evidence presented at the formal hearing. The non-requesting party may submit a response, to the Director of Human Resources, to the request within two (2) business days of receipt. The Director of Human Resources shall forward both the request for reconsideration and any response thereto to the Hearing Officer. It shall be the sole discretion of the Hearing Officer whether to modify the Finding of Facts based on the request and any response to such request.

13.9 EMPLOYEE REPRESENTATION DURING DEPARTMENTAL HEARING

During the informal departmental hearing, an employee is permitted to have a licensed attorney and/or a consultant present and to confer with such licensed attorney and/or consultant. However, the employee's licensed attorney and/or consultant will not be permitted to participate directly in the proceedings.

13.10 ADMINISTRATIVE PROCEDURE

All hearings shall be conducted in an orderly manner to ascertain all relevant facts within a reasonable period of time, while according fairness and impartiality to all parties. Testimony before the Hearing Officer and City Council shall be given under oath. The Hearing Officer shall preside over the hearing before him/her. The President or President Pro Tem of the City Council shall preside over hearings before the City Council. The City Council shall retain legal counsel, independent of the City Attorney's Office, to advise it in these regards. No person so retained shall serve as legal counsel to the City Council in any matter if such person has a personal or financial interest therein, or if

such person has a conflict of interest with the City Council or the City of Huntsville.

In hearings before the Hearing Officer, the burden of proof shall be on the party filing the charges. In hearings before the City Council the burden of proof shall be on the employee requesting the review of the disciplinary action. The burden of proof standard to be used by the Hearing Officer is that of substantial legal evidence, which is defined as relevant evidence that a reasonable mind would view as sufficient to support a determination.

(A) The order of presentation of evidence at the hearing before the Hearing Officer shall be as follows:

- (1) Opening statement of the Department Head, or his/her representative of choice, presenting the charges against the employee;
- (2) Opening statement of the employee, or his/her representative of choice, against whom charges have been filed;
- (3) Evidence and testimony presented on behalf of the Department Head with cross-examination by the employee, or his/her representative of choice;
- (4) Evidence and testimony presented on behalf of the employee with cross-examination by the Department Head, or his/her representative of choice;
- (5) Rebuttal evidence and testimony presented on behalf of the Department Head with cross-examination by the employee, or his/her representative of choice. Rebuttal evidence and testimony may only address issues raised by the employee in the presentation of evidence, and may not be used to raise any new issue before the Hearing Officer;
- (6) Closing remarks by the Department Head, or his/her representative of choice; and,
- (7) Closing remarks by the employee, or his/her representative of choice.

The parties may waive opening and closing remarks.

(B) The order of presentation before the City Council shall be as follows:

- (1) Brief statement by the employee, or his/her representative of choice, as to why the disciplinary action taken against such employee is inconsistent with the Finding of Facts made by the Hearing Officer;
- (2) Brief statement by the Department Head, or his/her representative of choice, in rebuttal thereto;
- (3) Evidence and testimony presented on behalf of the employee related solely to the issue of whether or not the disciplinary action taken against such employee is inconsistent with the Finding of Facts made by the Hearing Officer. No evidence or testimony shall be presented by the employee, or his/her representative of choice, which relates to, or is

connected in any way with, the facts which were, or should have been, presented at the hearing before the Hearing Officer;

(4) Cross-examination by the Department Head, or his/her representative of choice;

(5) Evidence and testimony presented by the Department Head, or his/her representative of choice, which is subject to the same restrictions and limitations as set forth in (3) above;

(6) Cross-examination by the employee, or his/her representative of choice;

(7) Rebuttal evidence and testimony presented on behalf of the employee with cross-examination by the Department Head, or his/her representative of choice. Rebuttal evidence and testimony may only address matters raised by the Department Head, or his/her representative of choice, in the presentation of evidence permitted under this section, and may not be used to raise any new matters before the City Council;

(8) Closing remarks by the employee, or his/her representative of choice; and,

(9) Closing remarks by the Department Head, or his/her representative of choice.

The parties may waive opening and closing remarks.

(C) The following administrative rules shall apply to hearings before the Hearing Officer and/or before the City Council:

(1) Each hearing should begin with an explanation of the order of presentation, as hereinabove set forth;

(2) The employee is permitted to have a licensed attorney and/or another individual present and to consult with both individuals. However, only one of the individuals will be permitted to participate directly in the proceedings as the employee's representative of choice. Such individual(s) will serve at the employee's own expense and such individual(s) may not act as a witness for the employee;

(3) If the employee intends to be represented by or consult with a licensed attorney and/or another individual at the hearing before the Hearing Officer, then he/she shall provide written notice of such, including the name of the attorney and/or the other individual, to the Department of Human Resources, at least five (5) working days prior to the hearing date. Failure to provide the written notice within the required time frame shall result in a forfeiture of the employee's right to a representative and/or consultant;

(4) If the employee intends to be represented by or consult with a licensed attorney and/or another individual at the hearing before the City Council, then he/she shall provide written notice of such, including the name of the attorney and/or the other individual, to the President (or

President Pro Tem, in the absence of the President) of the City Council, at least five (5) working days prior to the hearing date. Failure to provide the written notice within the required time frame shall result in a forfeiture of the employee's right to a representative and/or consultant;

(5) The Department Head may be represented by a member of the City Attorney's staff and/or a representative of choice. However, the Department Head shall be present at all hearings before the City Council. The Department Head shall be present unless a waiver of attendance is granted by the President (or President Pro-Tem, in the absence of the President) of the City Council upon request;

(6) The employee may compel the attendance of any City employee as a witness at the hearing before the Hearing Officer by requesting such attendance through the Department of Human Resources, in writing, at least five (5) working days prior to the hearing date;

(7) The employee may compel the attendance of any City employee as a witness at the hearing before the City Council, subject to the limitation of this section, by requesting such attendance through the President (or President Pro-Tem, in absence of the President) of the City Council, in writing, at least five (5) working days prior to the hearing date;

(8) At the request of the Department Head, the Hearing Officer, or the attorney for the City Council, the Hearing Officer or the attorney for the City Council may require the employee to show cause as to the need for the witnesses requested by such employee. At such show cause hearing, the Department Head may appear through a representative. The employee is required to attend the show cause hearing; and, in the event the employee fails to attend the show cause hearing, the employee's requests for witnesses are deemed to be automatically withdrawn.

At the show cause hearing, the employee may present argument as to why a witness' presence is necessary at the hearing. None of the witnesses requested by the employee are required to be present at the show cause hearing, and such witnesses, if they do appear, shall not be compensated by the City of Huntsville for their attendance at the show cause hearing.

If, in the opinion of the Hearing Officer or the attorney representing the City Council, as appropriate, presence of a requested witness is not required, then such witness may be dismissed by the Hearing Officer or the attorney for the City Council, as appropriate, prior to the disciplinary hearing.

If there is insufficient time to conduct a show cause hearing between the date the employee's notice of requested witnesses is received and the date of the disciplinary hearing before the Hearing Officer or the City Council, as appropriate, then the disciplinary hearing may be rescheduled by the Hearing Officer or the attorney for the City Council, as appropriate, at the request of either party to the disciplinary proceedings;

(9) Legal rules of evidence shall not be strictly applied to any hearing under this section; however, the presiding officer at any hearing

hereunder may, in his/her discretion, exclude any evidence which he/she deems to be irrelevant to the issues before the hearing body;

(10) Any documents or written evidence must be either certified by an appropriate official or verified by testimony of a person with actual knowledge of the authenticity of the document or written evidence. However, the parties are encouraged to agree in advance to the authenticity of documents or written evidence where possible, to conserve time at the hearing and so as not to require the attendance of otherwise unnecessary witnesses at the hearing;

(11) Requests for postponement or continuances of hearings must be for good cause shown and approved by the presiding officer;

(12) The appearance of the employee shall be required at the hearing before the Hearing Officer and the City Council. Failure of the employee to appear before the Hearing Officer shall be treated as an admission by the employee that he/she is guilty of the charges against him/her. If the employee fails to make an appearance in a hearing before the City Council, then such failure to appear shall be deemed an automatic withdrawal of the application for review;

(13) Decisions of the presiding officer concerning the conduct of the hearing shall be final;

(14) The order of presentation set forth for hearings before the Hearing Officer and the City Council may be revised by the presiding officer with the consent of the parties in the case;

(15) Except as protected by his/her Fifth Amendment rights, an employee's failure to respond to an inquiry or investigation or to testify at the request of the Department Head may result in further disciplinary action. In the event the employee that is the subject of disciplinary proceedings invokes his/her Fifth Amendment rights as to any material issue, the presiding official may consider the invocation in making his/her determination; and,

(16) Any hearing under this section may be closed to the public at any time at the request of the Hearing Officer, or any party involved, except that a hearing before the City Council may be closed to the public only as provided under Section 13A-14-2, Code of Alabama (1975), as amended (the "Sunshine Law").

SECTION 14

GRIEVANCE POLICY AND PROCEDURE

14.1 GRIEVANCE POLICY

It is the policy of the City of Huntsville that any regular, full-time employee of the City may file a grievance pursuant to the procedure set forth in this section. Resignation of employment by an employee shall constitute an automatic withdrawal of any pending grievance.

(A) Acceptable Reasons for Grievance:

- (1) Job classification, subject to the provisions of Section 7.5;
- (2) Unsafe working conditions;
- (3) Retaliation by a supervisor against an employee for exercising a right protected by law; complying with any law; reporting a violation of any law to the proper government authority; or, reporting fraud, waste, or abuse to the proper government authority;
- (4) Misapplication of law, ordinance, or policy affecting matters or conditions of employment;
- (5) A disciplinary action resulting in suspension of employment for ten (10) working days or less, except as provided in Section 14.1 (B)(4);
- (6) Promotional by-passing where there is evidence of arbitrariness and capriciousness. Arbitrariness and capriciousness are defined as an unreasonable action in disregard of the facts or without a determining principle;
- (7) Discrimination or harassment as defined in Section 3.3 herein;
- (8) Retaliation as set forth in Section 14.9 hereof; and,
- (9) Unauthorized or inappropriate use or disclosure of protected health information, as defined by HIPAA Privacy Regulations.

(B) Unacceptable Reasons for Grievance:

- (1) To contest the validity of an adopted, approved ordinance or a properly enacted resolution of the City Council;
- (2) To contest the validity of a rule or policy promulgated by the Mayor;
- (3) To contest any disciplinary action resulting in suspension of employment for more than ten (10) working days;
- (4) To contest a disciplinary suspension of 10 days or less where the discipline resulted from a formal disciplinary hearing in accordance with Section 13.6(E); (ORD. 05-775)

- (5) To contest any disciplinary action resulting in an oral reprimand, a written reprimand, or imposed probation to an employee;
- (6) To contest a demotion; (ORD. 05-775)
- (7) To contest any action or matter falling within management rights or management discretion;
- (8) To contest non-selection for advancement or promotion, except as provided in subsection A above; or,
- (9) To contest any action that does not pertain directly, personally, and solely to the employee's own employment, except for a grievance filed pursuant to Section 14.1 (A)(7) on behalf of another employee.

14.2 GRIEVANCE PROCEDURE

(A) Initiating a Grievance

(1) Filing a grievance

A grievance shall be filed in writing on a form provided by the City of Huntsville Department of Human Resources. The Department of Human Resources shall assist the employee in completing the grievance paperwork upon request. Each employee filing a grievance shall sign a statement acknowledging that he/she has read and understands the grievance procedures as outlined in Section 14 of the City of Huntsville's Personnel Policies and Procedures Manual; or that he/she has received counseling by the Department of Human Resources regarding these grievance procedures.

The grievance, as filed, shall state with specificity the facts upon which the employee is relying for the grievance, including the applicable category of the grievance pursuant to Section 14.1 hereof, and shall state with specificity the remedy sought. If the employee fails to follow any policy or any procedure as set forth in this Section 14, the Director of Human Resources may refuse the grievance, or any portion thereof, on the basis of it being improperly filed. The decision to refuse a grievance by the Director of Human Resources shall be final.

The grievance shall be filed with the employee's immediate supervisor (or if the immediate supervisor is the subject of the grievance, then with the supervisor at the next level in the chain of command) who shall immediately forward the grievance to the Department Head. However, if the Department Head is the subject of the grievance, the employee shall file the grievance with the Director of Human Resources.

(2) Time period for filing a grievance

All grievances must be filed within thirty (30) days after the situation complained of has occurred. If the grievance alleges a chain or series of events resulting in a grievance, then such grievance must be filed within thirty (30) days of the last act made as part of the grievance. Failure to file

any grievance within the required time shall bar the consideration of the grievance.

(3) The Department Head's response

The Department Head (or if the Department Head is the subject of the grievance, then the Director of Human Resources) shall investigate the grievance and deliver a written response to the employee within fourteen (14) days after the grievance is received by the Department Head (or if the Department Head is the subject of the grievance, then the Director of Human Resources). The requirement to respond to a grievance within fourteen (14) days of receipt may be extended by mutual consent of the Department Head, the employee, and the Director of Human Resources.

The response shall state the Department Head's decision and the reason(s) therefore. The Department Head shall furnish a copy of the grievance and the response thereto to the Department of Human Resources immediately after such response is delivered to the employee. In the absence of the Department Head or the Director of Human Resources, a designee may perform the investigation or deliver the written response required by this paragraph. If the Department Head or the Director of Human Resources fails to deliver or furnish a written response or other paperwork within the specified time limit, the grievance shall be deemed denied and the employee is authorized to proceed to the next step in the grievance process. The employee's failure to timely proceed to the next step shall be deemed a withdrawal of the grievance without resolution and shall be a forfeiture of any further appeal of the grievance.

(B) Appeal to Personnel Committee

(1) Filing an appeal to the Personnel Committee

An employee who is dissatisfied with or has not received a response within fourteen (14) days to his/her grievance may appeal the decision to the Personnel Committee of the City of Huntsville, as hereinafter established. Such appeal shall be filed on a form provided by the Department of Human Resources. The appeal shall include:

- (a) a copy of the employee's original grievance;
- (b) a copy of the Department Head's or the Director of Human Resources' response (if no response was provided, this fact should be stated); and,
- (c) a concise statement of what the employee disputes in the Department Head's or the Director of Human Resources' response (if no response was provided, this fact should be stated).

To be considered filed, the appeal must contain substantially all the information set forth in subparagraphs a, b, and c, above.

(2) Time period for filing the appeal to the Personnel Committee

Any appeal to the Personnel Committee shall be filed in the Office of the Director of Human Resources within fourteen (14) days of the employee's receipt of the Department Head's response to the grievance. In the event that a Department Head or the Director of Human Resources has failed to furnish a response within the specified time limit, the employee's appeal must be filed within fourteen (14) days of the date that said response was due to be delivered to the employee. Failure to file an appeal within the prescribed time period shall be a forfeiture of any further appeal of the grievance.

(3) Scheduling a hearing before the Personnel Committee

The Director of Human Resources shall schedule a hearing date with the Personnel Committee to hear a properly filed appeal within thirty (30) days of the filing of the appeal. Unless a show cause hearing is granted, such hearing shall be a full evidentiary hearing, conducted in accordance with this section.

The employee shall be given not less than ten (10) days notice of the initial hearing date, time, and place, unless the employee knowingly and willingly waives such notice, in writing. Such waiver is discouraged by this policy and should be permitted only where the notice requirement would work a hardship on the employee.

If a show cause hearing is granted and there is insufficient time to conduct the show cause hearing between the date that the Department Head's demand for a show cause hearing is received and the date of a scheduled full evidentiary hearing before the Personnel Committee, then the full evidentiary hearing may be postponed or rescheduled at the request of the Chairman of the Personnel Committee, beyond the thirty (30) day limitation above, pending completion of the show cause hearing.

Any hearing may be subject to rescheduling, postponement, or continuance at the request of either party, the Chairman of the Personnel Committee, or the Department of Human Resources, beyond the thirty (30) day limitation above, for good cause given. In addition, the hearing before the Personnel Committee may be adjourned from time to time to accommodate the reasonable needs of the parties and the members of the Committee. It shall be the policy of the Committee to expedite all hearings to as early a conclusion as practicable without infringement on the right of any party of a full and meaningful hearing.

Failure of an employee to pursue or agree to a hearing date established by the Personnel Committee within six (6) months, from the date the grievance was appealed to the Personnel Committee, shall result in a determination of denial of the grievance. Such a denial of the grievance can not be appealed to the City Council.

(4) Hearings before the Personnel Committee

The Chairman of the Personnel Committee shall preside over and govern the conduct of the hearings before that Committee. All hearings shall be conducted in an orderly procedure to ascertain all relevant facts within a reasonable period of time, while according fairness and impartiality to all parties. The Chairman may set reasonable time limits for presentation of the employee's and the Department Head's cases. Each hearing shall begin with an explanation of the order of presentation. Decisions of the presiding officer concerning the conduct of a hearing shall be final.

The proceedings before the Personnel Committee shall be taken down by a qualified court reporter who shall certify a transcript of the proceedings upon request of the Director of Human Resources. The court reporter shall administer oaths. In addition, the court reporter shall mark any exhibits entered at the hearing and take such exhibits into custody and include them as a part of any transcript of the hearing. No tape or video recordings will be permitted by anyone other than the court reporter.

The burden of proof shall be on the employee filing the grievance. In order to grant an employee's grievance, the Personnel Committee must be satisfied that the employee has shown by substantial legal evidence that the employee has been aggrieved as alleged in the grievance as filed and that the employee is entitled to the remedy sought. Substantial legal evidence, the burden of proof standard for grievance procedures, is defined as relevant evidence that a reasonable mind would view as sufficient to support a determination that the employee is entitled to the remedy sought for the reason(s) stated. In the case of a grievance filed under Section 14.1(A)(5), the Personnel Committee shall not substitute its judgment for that of the Department Head but rather shall review as to whether the disciplinary action is inconsistent with the Department Head's Finding of Facts.

(a) Show cause hearing

At any time prior to the commencement of a full evidentiary hearing before the Personnel Committee, the Department Head shall have the right to request that an employee show cause as to why his/her grievance is, in fact, grievable under Section 14.1. Upon such request, the Chairman of the Personnel Committee shall determine whether to grant the request. If the request for a show cause hearing is granted, the Chairman of the Personnel Committee shall convene a show cause hearing before the Personnel Committee and provide the employee and the Department Head an opportunity to present argument to the Committee as to whether the grievance is allowable under Section 14.1. Testimony by witnesses shall not be permitted at a show cause hearing before the Personnel Committee unless necessary to establish the occurrence or nonoccurrence of an event which would invalidate the grievance. However, relevant documentary evidence shall be permitted in support of the arguments made by the parties.

In addition to requesting a show cause hearing to determine whether the grievance is allowable pursuant to Section 14.1, at any time prior to the commencement of a full evidentiary hearing before the Personnel Committee, the Department Head, subject to the provisions of Section 14.3(D)(3), shall have the right to request that an employee show cause as to the need for the witnesses requested.

The order of presentation in a show cause hearing before the Personnel Committee shall be, as follows:

- (i) Opening statement of the employee, or his/her representative of choice, which may be waived;
- (ii) Opening statement of the Department Head, or his/her representative of choice, which may be waived;
- (iii) Argument (and testimony where necessary) presented on behalf of the employee;
- (iv) Argument (and testimony where necessary) presented on behalf of the Department Head;
- (v) Closing remarks by the employee, or his/her representative of choice, which may be waived; and,
- (vi) Closing remarks by the Department Head, or his/her representative of choice, which may be waived.

The Personnel Committee shall render a written decision as to whether the matter or issue is, in fact, grievable under Section 14.1. If the Personnel Committee concludes that the matter or issue is not grievable, then the Personnel Committee shall decline to conduct a full evidentiary hearing. The unsuccessful party in a show cause hearing to determine whether the grievance is allowable shall have the appeal rights provided in Section 14.2(C).

In the case of a show cause hearing for witness request, pursuant to Section 14.3(D)(3), the Personnel Committee shall render a written decision regarding whether the requested witnesses are allowable. The determination of the Personnel Committee is final.

The Committee Chairman shall deliver to the Director of Human Resources the written decision of the Committee on the show cause hearing within fourteen (14) days of the conclusion of the show cause hearing. The Director of Human Resources shall notify the employee of the decision immediately. Once the written decision is fully executed by the Personnel Committee, the Director of Human Resources shall cause a copy of the same to be delivered to the employee and to the Department Head.

(b) Full evidentiary hearing

The order of presentation of evidence in a full evidentiary hearing before the Personnel Committee shall be as follows:

- (i) Opening statement of the employee, or his/her representative of choice, which may be waived;
- (ii) Opening statement of the Department Head or his/her representative of choice, which may be waived;
- (iii) Evidence and testimony presented on behalf of the employee with cross-examination by the Department Head, or his/her representative of choice;
- (iv) Evidence and testimony presented on behalf of the Department Head with cross-examination by the employee, or his/her representative of choice;
- (v) Rebuttal evidence and testimony presented on behalf of the employee with cross-examination by the Department Head, or his/her representative of choice. Rebuttal evidence and testimony may only address issues raised by the Department Head in presentation of evidence, and may not be used to raise any new issue before the Committee;
- (vi) Closing remarks by the employee, or his/her representative of choice, which may be waived; and,
- (vii) Closing remarks by the Department Head, or his/her representative of choice, which may be waived.

(5) The Personnel Committee's decision on a full evidentiary hearing

In reaching its decision on a full evidentiary hearing, the Personnel Committee shall be guided by the burden of proof standard provided in Section 14.2(B)(4). In its decision, the Personnel Committee shall expressly state whether the grievance is granted or denied (and, if granted or denied in part, the Personnel Committee should state clearly which portions are granted or denied), stating the reasons therefore. In addition, the Personnel Committee shall provide, if deemed appropriate a suggestion as to corrective action suitable or appropriate to cure the situation and/or minimize its recurrence.

In making its decision, the Personnel Committee may determine that grounds do not exist for granting the grievance; and, therefore, deny and dismiss the grievance. Said determination maybe premised upon the employee's failure to carry his/her burden of proof; his/her failure to satisfy the procedural requirements of the grievance process; his/her failure to rely upon acceptable reasons for filing a grievance; his/her reliance upon unacceptable reasons for filing a grievance; the harassing nature (in whole or in part) of a grievance; or, any other appropriate reason. The Personnel Committee shall not have the authority to approve or suggest the expenditure of funds, including, without limitation, back pay, damages, or attorney's fees.

The Committee Chairman shall deliver to the Director of Human Resources the written decision of the Committee on the employee's grievance appeal within fourteen (14) days of the conclusion of the grievance hearing. The Director of Human Resources shall notify the employee of the decision immediately. Once the written decision is fully executed by the Personnel Committee, the Director of Human Resources shall cause a copy of the same to be delivered to the employee and to the Department Head. Said decision shall be final unless an appeal to the City Council is filed as hereinafter provided. Upon the Personnel Committee's decision becoming final, the Department Head and the Mayor shall institute the appropriate action consistent with the Committee's findings and decision.

(C) Appeal to the City Council

(1) Filing an appeal to the City Council

An employee or a Department Head (except in the context of a show cause hearing, where the Department Head's appeal grounds are preserved for review if there is a later appeal of the full evidentiary hearing) who is dissatisfied with a decision of the Personnel Committee may, as a matter of right, appeal the decision for review by the City Council. An appeal for review by the City Council must be filed in writing to the Director of Human Resources and shall state with specificity the particular portions of the Personnel Committee decision with which the appealing party disagrees and the reason why the appealing party believes those particular portions to be erroneous.

(2) Time period for filing an appeal to the City Council

An appeal for review by the City Council must be filed with the Director of Human Resources within seven days (7) after a party's receipt of an adverse written decision from the Personnel Committee.

(3) Scheduling the hearing before the City Council

The Director of Human Resources shall immediately notify the President of the City Council when an appeal has been filed. The President of the City Council shall schedule a hearing before the City Council within forty-five (45) days of the date of the appeal. The City Council shall notify the Director of Human Resources of the date, time, and place set for the review hearing. The Director of Human Resources shall then notify the affected employee and his/her Department Head of same. The employee shall acknowledge, in writing, receipt of the notice to the Director of Human Resources on a form provided by the Director of Human Resources.

It shall be the policy of the City Council to expedite all hearings to as early a conclusion as practicable without infringement on the right of any party to a full and meaningful hearing. However, such hearing shall be subject to rescheduling, postponement, or continuance, with the approval of the President of the City Council, at the request of either party or the City Council. In addition, the hearing before the City Council may be adjourned from time to time to accommodate the

reasonable needs of the parties and the members of the Council. If all City Council members are not present on the date and time scheduled for the hearing, the employee or Department Head shall, upon request, be entitled to a continuance until such time as all City Council members are present. A continuance granted as provided in this paragraph shall operate as a waiver of the requirement to schedule the hearing within forty-five (45) days of the appeal.

(4) The record before the City Council

The Director of Human Resources shall cause the transcript of the proceedings before the Personnel Committee, including all exhibits thereto, to be completed and a copy thereof delivered to the employee, the Department Head, and the members of the City Council. Such transcript shall be delivered not less than seven (7) days before the scheduled hearing date. Failure of the court reporter to complete the transcript, or if for any other reason, the employee, the Department Head, or the City Council members do not receive the transcript at least seven (7) days prior to the hearing, then the hearing may be postponed, even beyond the forty-five (45) day limitation hereinabove imposed, but only at the request of the party or parties not receiving said transcript.

In addition to and simultaneous with the transcript, the Director of Human Resources shall cause to be delivered to the City Council members the following items:

- (a) A copy of the employee's original grievance;
- (b) A copy of the Department Head's (or the Director of Human Resources') response, if any;
- (c) A copy of the employee's appeal to the Personnel Committee, including the employee's statement in response to the Department Head's (or the Director of Human Resources') response, if any; and,
- (d) A copy of the decision of the Personnel Committee appealed from.

The transcript, with exhibits, and items (a)- (d) above shall constitute the record on appeal for consideration by the City Council.

(5) Hearings before the City Council

The President or the President Pro Tem of the City Council shall preside over and govern the conduct of hearings before the City Council and may set reasonable time limitations for presentation of cases under this policy. Each hearing shall begin with an explanation of the order of presentation. Decisions of the presiding officer concerning the conduct of a hearing shall be final.

The members of the City Council may question the parties concerning any relevant matter.

The proceedings before the City Council shall be taken down by a qualified court reporter. The court reporter shall certify a transcript of the proceedings upon request of the City Attorney. The certified transcript of the court reporter shall be the official record of the proceedings before the City Council. The court reporter shall administer oaths. In addition, the court reporter shall mark any exhibits entered at the hearing and take such exhibits into custody and include them as a part of any transcript of the hearing.

(a) The standard of review before the City Council

The burden of proof before the City Council shall be on the appealing party.

The City Council shall consider the record on appeal and any supplemental evidence or testimony presented at the hearing, together with the arguments of each party made at the hearing, and responses to the City Council's questions to the parties regarding relevant matters.

The standard of review before the City Council shall be whether the record before the Personnel Committee, as it may be supplemented before the Council, contains evidence supporting the decision of the Personnel Committee. In addition, for an appeal from the Personnel Committee's show cause determination that a grievance filed does not fall within the types of grievances allowed under Section 14.1, the decision shall be reviewed by the City Council only on the issue of whether the matter is grievable. Determination of the weight and credibility of the evidence before the Personnel Committee is for the Committee, and not the Council, to decide; but, the City Council may consider the weight and credibility of testimony actually presented before the City Council in rendering any decision on the grievance. The City Council may not substitute its judgment for that of the Personnel Committee as long as there is sufficient evidence in the record or in supplemental form to support the Personnel Committee's decision.

(b) Show cause appeals

The order of presentation in an appeal of a show cause hearing shall be, as follows:

(i) Opening statement of the employee, or his/her representative of choice, which may be waived;

(ii) Opening statement of the Department Head, or his/her representative of choice, which may be waived;

(iii) Argument presented on behalf of the employee;

(iv) Argument presented on behalf of the Department Head;

(v) Closing remarks by the employee, or his/her representative of choice, which may be waived; and,

(vi) Closing remarks by the Department Head, or his/her representative of choice, which may be waived.

If the City Council, pursuant to Section 14.2(C)(6), concludes, on appeal, that the matter or issue is grievable, the grievance shall be remanded to the Personnel Committee for a full evidentiary hearing on the merits of the grievance.

(c) Appeals from full evidentiary hearings

The order of presentation in an appeal from a full evidentiary hearing before the City Council shall consist of the following:

(i) Statement or argument by the appealing party, or his/her representative of choice, stating his/her case based on the record on appeal;

(ii) Testimony of any witness called by the appealing party, allowable only at the discretion of the City Council where the appealing party has demonstrated that the witness was unavailable at the hearing before the Personnel Committee after a diligent effort by the appealing party to have the witness testify at the Personnel Committee. Additional testimony and/or evidence may be submitted by the appealing party if it is newly discovered and which by due diligence could not have been discovered before the Personnel Committee Hearing;

(iii) Cross-examination of any witness called by the appealing party, or his/her representative of choice;

(iv) Statement or argument by the non-appealing party, or his/her representative of choice, stating his/her case based on the record on appeal;

(v) Testimony of witnesses called by the non-appealing party, subject to the same limitations imposed on the appealing party in subparagraph (ii), above, except that the non-appealing party may call a new witness to directly rebut any relevant testimony given by any witness of the appealing party at the City Council hearing;

(vi) Cross-examination of any witness called by the non-appealing party, or his/her representative of choice;

(vii) Rebuttal testimony on behalf of the appealing party, if any, and cross-examination by the non-appealing party, or his/her representative of choice, strictly limited to the matters raised in testimony at the hearing before the City Council; and,

(viii) Brief summary on behalf of the appealing party and the non-appealing party, in that order, which may be waived.

(6) The City Council's decision

A majority vote of those members elected to the City Council is required in order to alter a decision of the Personnel Committee. If the City Council is unable, by a majority of those members elected to the City Council, to alter the decision of the Personnel Committee, then the decision of the Personnel Committee shall stand unmodified. The City Council shall render a decision within thirty (30) days after the hearing, either upholding the Personnel Committee's decision or modifying it in part or in full. The City Council shall state the reason(s) for any modification of the Personnel Committee's decision.

The President of the City Council shall cause a copy of the City Council's decision to be delivered to the employee, the Department Head, members of the Personnel Committee, and the Director of Human Resources. The Department Head and the Mayor shall institute the appropriate action consistent with the City Council's findings and decision. The decision of the City Council shall be final.

14.3 ADDITIONAL PROCEDURAL MATTERS

(A) Counsel for the Personnel Committee and the City Council

The Personnel Committee may and the City Council shall retain legal counsel, independent of the City Attorney's Office, to advise them in regard to issues raised in the grievance process. No person so retained shall serve as legal counsel to the Personnel Committee or the City Council in any matter if such person has a personal or financial interest therein, or if such person has a conflict of interest with the City of Huntsville or the City Council.

(B) Employee Counsel

The employee is permitted to have a licensed attorney and/or another individual present and to consult with both individuals. However, only one of the individuals will be permitted to participate directly in the proceedings as the employee's representative of choice. Such individual(s) will serve at the employee's own expense and such individual(s) may not act as a witness for the employee.

(1) Before the Personnel Committee

If the employee intends to be represented by or consult with a licensed attorney and/or another individual at the hearing before the Personnel Committee, then he/she shall provide written notice of such, including the name of the attorney and/or the other individual, to the Department of Human Resources, at least five (5) working days prior to the hearing date. Failure to provide the written notice within the required time frame shall result in a forfeiture of the employee's right to a representative and/or consultant.

(2) Before the City Council

If the employee intends to be represented by or consult with a licensed attorney or another individual at the hearing before the Council, then he/she shall provide written notice of such, including the name of the attorney and/or the other individual, to the President (or President Pro Tem, in the absence of the President) of the City Council and the Director of Human Resources, at least five (5) working days prior to the hearing date. Failure to provide the written notice within the required time frame shall result in a forfeiture of the employee's right to a representative and/or consultant.

(C) Department Head Counsel

The Department Head or other designated official may be represented by a member of the City Attorney's staff and/or a representative of choice. The Department Head shall be present at all hearings before the City Council.

(D) Witnesses Requested by the Employee

(1) Before the Personnel Committee

Subject to the provisions of Section 14.3(D)(3), the employee may compel the attendance of any City employee as a witness at the Personnel Committee by requesting such attendance through the Department of Human Resources, in writing, at least five (5) working days prior to the hearing date.

(2) Before the City Council

Subject to the provisions of Section 14.3(D)(3), the employee may compel the attendance of any witness at the hearing before the City Council, in accordance with the limitations of Sections 14.2(C)(5)(c)(ii) and (v), by requesting such attendance through the President (or President Pro Tem, in absence of the President) of the City Council, in writing, at least five (5) working days prior to the hearing date.

(3) Show cause for witness requests

At any time prior to the commencement of a full evidentiary hearing or any appeal hearing before the Council, the Department Head shall have the right to demand that an employee show cause as to the need for the witnesses requested by such employee. Upon such demand, the Chairman of the Personnel Committee or the attorney for the City Council, as appropriate, shall determine whether to grant the request. If the request for a show cause hearing is granted, the Chairman of the Personnel Committee or the attorney for the City Council shall convene a show cause hearing and provide the employee and the Department Head an opportunity to present argument as to the need for the witnesses requested by such employee. At the show cause hearing, the employee carries the burden of showing why a witness' presence is necessary at the hearing. None of the witnesses requested by the employee are required to be present at the show cause hearing, and such witnesses, if they do appear, shall not be compensated by the City of Huntsville for their

attendance at the show cause hearing. If, in the opinion of the Personnel Committee or the attorney representing the City Council, as appropriate, presence of a requested witness is not required, then such witness may be dismissed by the Personnel Committee or the attorney for the City Council, as appropriate, prior to the grievance hearing. If there is insufficient time to conduct a show cause hearing between the date the employee's notice of requested witnesses is received and the date of the grievance hearing before the Personnel Committee or the City Council, as appropriate, then the grievance hearing may be rescheduled at the request of the Personnel Committee or the attorney for the City Council, as appropriate.

(E) Rules of Evidence

Legal rules of evidence shall not be strictly applied to any hearing under this Section 14; however, the presiding officer at any hearing hereunder may, in his/her discretion, exclude any evidence which he/she deems to be irrelevant to the issue before the hearing body. Any documents or written evidence must be either certified by an appropriate official or verified by testimony of a person with actual knowledge of the authenticity of the document or written evidence. However, the parties are encouraged to agree in advance of the authenticity of documents or written evidence where possible, to conserve time at the hearing and so as not to require the attendance of otherwise unnecessary witnesses at the hearing.

(F) Alteration of the Order of Presentation

The order of presentation set forth for hearings before the Personnel Committee and the City Council may be revised by the presiding officer with the consent of the parties in the case. In addition, it shall be an acceptable practice, whether agreed upon, expressly noted, or occurring on an ad hoc basis, to alter the order of presentations noted herein to the extent that the portion of an appeal hearing reserved for statement or argument by each party may be segmented so that the parties present their positions on a point-by-point basis so long as both parties are given a fair opportunity to present their cases.

(G) Closing of Hearings

Any grievance hearing may be closed to the public at any time at the request of any party involved, except that a hearing before the City Council may be closed to the public only as provided under Section 13A-14-2, Code of Alabama (1975), as amended (the "Sunshine Law").

14.4 EMPLOYEE PRESENCE

The employee's presence shall be required at all hearings in the grievance process. Failure of the employee to appear for any hearing shall be treated as an automatic dismissal of the grievance appeal.

14.5 EMPLOYEE TESTIMONY

Except as protected by his/her Fifth Amendment rights, an employee's failure to testify at the request of the Department Head, or other designated official, may result in disciplinary action.

14.6 USE OF CITY RESOURCES TO PREPARE FOR GRIEVANCES

Employees shall not be permitted to prepare for, or assist another employee in preparing for, a grievance during regularly scheduled work hours, while on City time or property, or using City resources. The foregoing shall not apply to employees of the Department of Human Resources or the Equal Employment Officer; to an employee seeking to file or who has filed a grievance and obtains assistance from the Department of Human Resources or the Equal Employment Officer; or, to an employee requested or designated by a Department Head or the Department Head's representative to provide information or testimony relative to the grievance.

14.7 PERSONNEL COMMITTEE (ORD. 09-292)

The Personnel Committee shall consist of the following:

(A) One employee of the City serving in a supervisory position below the rank of Division Manager. The employee shall be appointed by the Mayor for a one-year term. Such term may be renewed at the discretion of the Mayor;

(B) One employee of the City serving in a non-supervisory position, working in a department different from the department of the member in subsection (A) above. The employee shall be appointed by the Mayor for a one-year term. Such term may be renewed at the discretion of the Mayor; and,

(C) The City Administrator, who shall act as Chairman of the Committee. When the City Administrator is not able, for whatever reason, to serve as the Chairman, then a Chairman will be appointed from among the roster of Committee members or a Chairman may be appointed by the Mayor.

Members of the Personnel Committee will avoid discussions of a grievance with the parties or their representatives before and during a hearing. They will treat matters disclosed or discussed during a hearing or Committee deliberations in a confidential manner.

14.8 PENDENCY OF CERTAIN PERSONNEL ACTIONS DURING THE GRIEVANCE PROCESS

Any job classification, job assignment, advancement, or promotion shall be conditional during the thirty (30) days allowed for the filing of a grievance. If a grievance is filed within the 30-day period, then the job shall be conditional during the pendency of the grievance plus a reasonable time thereafter (not to exceed ten (10) days) for proper administrative action to be taken in accordance with the grievance outcome.

14.9 RETALIATION OR REPRISAL

No employee or official of the City shall threaten or in fact retaliate in any way against an employee for exercising any right the employee may have under this grievance policy; and no employee or official of the City shall interfere with an employee's preparation and presentation of a grievance as herein prescribed. Likewise, no employee or official of the City shall threaten or in fact retaliate in any way against an employee who testifies for or otherwise assists another employee in the grievance process, except that perjury before the hearing body shall be grounds for disciplinary action, including termination of employment where appropriate.

Any retaliation against, or interference with, the employment of an employee who has availed oneself of the grievance procedure, or an employee who has assisted another employee in the grievance process, shall be grounds for disciplinary action, including termination of employment where appropriate.

Any employee who suffers any retaliation as a result of availing oneself of the grievance procedure or assisting another employee in that respect may file a separate grievance based thereon.

14.10 HARASSMENT

No employee of the City shall use the grievance process with the intent or purpose of harassment or impeding departmental or City operations. A Department Head may offer evidence of harassment at any stage in the grievance process. If it is determined that the employee's use of the grievance procedure is based, in whole or in part, upon an intent or purpose of harassment or impeding departmental or City operations, the grievance, or any portion thereof, will be dismissed with no right of appeal.

SECTION 15

SAFETY

15.1 SAFETY POLICY

It shall be the policy of the City of Huntsville to provide employees with a working environment free of recognized hazards that could potentially cause occupational injury or illness. Safety programs shall be provided and designed to safeguard all employees and to minimize the frequency and severity of accidents.

The Safety Officer and/or the designated representative, in coordination with the appropriate Department Heads or their designee, shall be responsible for effectively implementing and enforcing the policies of the City's Safety Programs, including, but not limited to, safety inspections, accident investigations, and the establishment of safety standards for employees, equipment, and facilities.

Department Heads shall be responsible for ensuring compliance with all safety policies and procedures. All employees must cooperate with and assist the Safety Officer and/or the designated representative in safety administration. Each supervisor and manager must aggressively pursue the promotion of safety to ensure that goals and objectives of the program are accomplished.

Each supervisor shall be responsible for the safety indoctrination of his/her employees toward the safe execution of their jobs and shall provide on a continuous basis appropriate safety instructions to all employees.

The supervisor shall be responsible for continuous review of work sites and procedures used in the work requirements to ensure against potentially hazardous conditions.

The supervisor shall enforce all safety rules and regulations, ensure that all accidents are reported according to procedure, and shall conduct periodic meetings with employees regarding safety.

All employees are to maintain an alert attitude toward all aspects of safety and shall be required to take every precaution in the prevention of accidents to themselves, fellow workers, and the general public. Employees shall immediately notify their supervisor of any potentially dangerous work site or procedure. Employees are expected and required to comply with all safety and health standards, rules, and regulations. Violations of safety standards, rules, and regulations, or accidents resulting due to negligence of an employee shall subject the employee to disciplinary measures.

15.2 SAFETY INSPECTIONS

Safety inspections shall be an integral part of the organized safety efforts in attempting to discover conditions which, when corrected, will result in a safer and healthier place in which to work. Inspections shall apply to all departments of the City government under the direction of the Mayor of the City of Huntsville. Inspections shall be conducted by the Safety Officer and/or the designated representative and shall be of the following type:

(A) Periodic Inspections--Periodic inspections of the departments and work sites shall be scheduled and made at regular intervals. Such inspections shall be comprehensive in nature, with recommendations being provided to correct any found deficiencies;

(B) Intermittent Inspections--Intermittent inspections of the departments and work sites shall be made as determined by the Safety Officer and/or the designated representative. These inspections may be unannounced and unscheduled and shall be for the purpose of keeping the supervisory staff alert in maintaining safe working conditions; or,

(C) Special Inspections--Special inspections shall be conducted when the need arises and during special safety promotional campaigns, such as Fire Prevention Week.

Inspection reports shall be submitted to the Department Head subsequent to the inspection. Findings will be provided with recommendations for corrective action. The Department Head shall be responsible to initiate prompt resolution of any discrepancies noted.

15.3 ACCIDENT INVESTIGATIONS

The Safety Officer and/or the designated representative, in coordination with the appropriate department representative, are authorized to investigate accidents involving injury to an employee, loss of property, or other, as deemed necessary. All supervisory personnel and employees are required to cooperate with the Safety Officer and/or the designated representative in providing access to any information requested for the investigation.

15.4 CONDEMNATION OF EQUIPMENT OR MATERIAL DUE TO UNSAFE CONDITIONS

No employee shall be authorized to alter any equipment or material that diminishes the safety of such.

The Safety Officer and/or the designated representative are authorized to place equipment and material out of service due to unsafe condition(s), if determined that the condition imposes a serious or immediate danger to an employee, City property, or the general public.

When declared unsafe and any intended user is so notified by sign or otherwise, further use of the equipment or materials shall be prohibited until such conditions have been corrected and the notices removed or withdrawn. No equipment or material will be placed out of service without the prior knowledge of the Department Head and/or supervisor.

15.5 SAFETY INCENTIVE AWARDS PROGRAM (ORD. 07-1242)

A Safety Incentive Awards Program is established for the purpose of promoting safety awareness, injury/accident prevention, and safety recognition within the workforce on a City-wide and departmental basis, annually and quarterly respectively. The goals of this program are to instill within each employee the responsibility of safety within the work environment and reward employees who

perform their job tasks in a safe manner. In addition, the program shall serve a public purpose in that it is expected to significantly reduce costs or improve public services. The number of awards and total annual expense for the Safety Incentive Awards Program will be determined by the Administration. No Safety Incentive Awards will be made in the absence of City Council approval.

(A) Definitions

For purposes of the Safety Incentive Awards Program, the following terms shall have the respective meaning ascribed in this Section:

- (1) Safety Incentive Committee means representatives as designated by the Mayor from the Administration, Human Resources and various departments within the City, such as Police, Fire & Rescue, Public Works, Water Pollution Control, Recreation & Landscape Management, General Services, and Facilities Projects & Fleet Management;
- (2) Projected (Budgetary) Losses mean the amount of money budgeted each fiscal year for the Workers' Compensation Program;
- (3) Loss Target means the results of the Projected (Budgetary) Losses minus the Maximum Incentive Payment;
- (4) Maximum Incentive Payment means the annual total dollar payout to eligible employees under the Safety Incentive Awards Program;
- (5) Low Risk Classification means an employee whose position requires minimal or no exposure to potential hazardous environments or substances;
- (6) Medium Risk Classification means an employee whose position requires intermittent or occasional work in potentially hazardous environments or with hazardous substances; and,
- (7) High Risk Classification means an employee whose position requires direct work in potentially hazardous environments or with hazardous substances on a routine basis.

(B) Safety Incentive Awards Program

- (1) A Loss Target shall be established for the fiscal year by the Administration based upon the Projected (Budgetary) Losses. Employees deemed eligible by their department shall receive recognition and the established Safety Incentive Award. Eligible employees may receive recognition and a partial Safety Incentive Award, as determined by the Administration, if Actual Losses exceed the Loss Target, but remain less than Projected (Budgetary) Losses in the fiscal year. No Safety Incentive Awards will be given if Actual Losses exceed total Projected (Budgetary) Losses for the fiscal year.

(2) All employees, whether full-time or part-time, excluding Elected Officials, Appointed Officials and Department Heads, will be eligible for participation in the Safety Incentive Awards Program. For quarterly awards employees must have been employed for the entire quarter and must have performed normal work duties for at least fifty (50%) of the work hours during the quarter. Temporary employees will be eligible only for quarterly awards. Participation in the annual awards is restricted to employees, other than temporary employees, who have been employed the preceding full year and who have worked at least fifty (50%) of the work hours in the preceding year. Recognitions and incentive awards, as outlined within this policy, will be determined based upon the employee's high, medium, and low risk classification, as primarily designated by the Workers' Compensation Program and the Safety Incentive Committee and approved by the Director of Human Resources.

(3) Employee eligibility for participation in the Safety Incentive Awards Program shall be determined by their Department Head or designated representative in accordance with predetermined criteria as approved for each department by the Director of Human Resources.

(4) The components of the Safety Incentive Awards Program are:

(a) The Annual Recognition Programs

(i) The annual Employee Safety Recognition and Incentive Program shall provide monetary awards to full-time and part-time employees based upon their high, medium or low risk classification. Eligible full-time employees in a high risk classification shall receive a \$100 annual monetary award. Eligible full-time employees in a medium risk classification will receive a \$75 annual monetary award. Eligible full-time employees in a low risk classification will receive a \$50 annual monetary award. In addition, eligible part-time employees shall receive one-half of the annual monetary awards, based upon their designated risk classification.

(ii) The "SAFE" Recognition Program is designed to recognize employees who remain injury and/or accident free for the entire fiscal year. Eligible employees, who remain injury and/or accident free at the conclusion of each quarter of the fiscal year, shall be eligible for participation in this program. The letter "S" will be awarded for the 1st fiscal quarter, the letter "A" for the 2nd fiscal quarter, the letter "F" for the 3rd fiscal quarter, and the letter "E" for the 4th fiscal quarter to those employees that meet the eligibility criteria. The fiscal quarters shall be defined as:

October – December	"S"
January – March	"A"
April – June	"F"
July – September	"E"

Employees receiving all of the letters for each fiscal quarter shall be eligible for grand prize drawings, as determined by the

Administration. Employees must be employed by the City for the entire fiscal year to be eligible for participation in the "SAFE" Recognition Program.

The Department Head or designated representative is responsible for maintaining a listing of their employees that qualify for the "SAFE" Recognition Program.

Based upon available funding and authorization from the Administration, a Safety Awards & Recognition Luncheon may be held to recognize and present the appropriate safety incentive awards under the "SAFE" Recognition Program to eligible employees.

(b) Quarterly Recognition Program

In addition to the Annual Recognition Programs, eligible employees will receive a quarterly departmental safety incentive award, not to exceed a maximum value of \$50.

The quarterly safety incentives shall be awarded on a ratio of 1 per 50 employees. Selection of the award recipients shall be made by drawing among the employees meeting the eligibility criteria. Smaller departments shall be combined to achieve the 1 per 50 employee ratio.

Each department shall determine which of their respective employees are eligible for the quarterly departmental safety incentive program.

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 16

TRAINING AND DEVELOPMENT

16.1 TRAINING POLICY

It will be the policy of the City of Huntsville to assist in providing the training required to develop the skills, knowledge, and abilities that will enhance the employees' capability to perform their official duties. The basic objectives of this policy are to build and retain a permanent cadre of skilled and efficient public employees, and to raise the proficiency of employees.

16.2 SELECTING EMPLOYEES FOR TRAINING

Fair and equitable treatment will be applied in selection and assignment of employees for training. The following factors will be considered when selecting any employee for training:

- (A) Appointment status;
- (B) Assurance that there is no discrimination because of color, religion, sex, national origin, physical or mental disability, age, or other factors unrelated to the need for training;
- (C) The relative degree of the employee's need for training;
- (D) The relative extent to which the employee's knowledge, skills, attitudes, or performance is likely to be improved by training;
- (E) The relative ability of the employee to pass the training on to others upon return to the job;
- (F) Anticipated benefits versus cost;
- (G) The relative length of time and degree to which the department expects to benefit from the employee's improved knowledge, skills, attitudes, and performance;
- (H) Availability of the employee for training;
- (I) Training opportunities previously afforded the employee by the City; and,
- (J) The degree to which the training is related to duties the employee is currently performing.

16.3 PROCEDURES FOR REQUESTING APPROVAL OF TRAINING

Because of legal and fiscal obligations incurred in training contracts, certain training for City employees must be coordinated from the beginning with the Department of Human Resources. Funds must be budgeted in the Human Resources Department's Training Account 602 prior to use.

A "Request for Approval of Training" form must be used to request training. Before submission to the Human Resources Department, the training request

must have the employee's signature and the Department Head's or Division Manager's signature. In addition, the Department Head or Division Manager must state on the training request the justification for training.

Requests for training should show the relationship between the course/seminar requested and the employee's current duties.

Training requests should reach the Human Resources Department at least fifteen (15) working days prior to course starting dates, unless extenuating circumstances beyond the control of the submitting office have necessitated the late submission. Training requests should not be submitted to the Human Resources Department more than thirty (30) days prior to the beginning of the specific course starting date. Requests received more than thirty (30) days prior to the course starting date may be returned to the employee for resubmission at the appropriate time.

16.4 TRAINING THROUGH LOCAL GOVERNMENT FACILITIES

Where available, employees are encouraged to attend training relevant to their job functions conducted by local governmental agencies with instruction primarily provided by City, County, State, or other local agency personnel acting in their official capacities. This includes all courses, lectures, workshops, etc., conducted by City personnel and the training programs of other local agencies in which City employees may participate. Employees shall seek and receive approval to attend such training from their Department Head.

16.5 TRAINING THROUGH EDUCATIONAL INSTITUTIONS, ASSOCIATIONS, AND PRIVATE ENTERPRISE

When training is not reasonably available through local government or local agency facilities, the City may use non-governmental facilities to accomplish needed training. Included is training provided at and by an educational (credit and non-credit type) institution, a manufacturer, an association, and other qualified non-governmental instructors. It may be on-duty or off-duty, part-time or full-time, in-city or out-of-city.

16.6 EXPENDITURE OF FUNDS FOR CONFERENCES/SEMINARS

It will be the practice of the City of Huntsville to use training funds budgeted by the Human Resources Department for conference and seminar registration fees, provided that the policy will be carried out under the following guidelines:

(A) The Department Head shall have the discretion to use such training funds in accordance with departmental priorities and available funding. However, training requests shall have concurrence of the Human Resources Department prior to obligation of funds; and,

(B) Funds must be budgeted in the Human Resources Department's Training Account 602 prior to use. The employee's department will arrange for travel and per diem in accordance with the City's Conference and Travel Policy.

16.7 EXPENDITURE OF FUNDS FOR CONTINUING EDUCATION PROGRAMS

It will be the practice of the City of Huntsville to use training funds budgeted by the Human Resources Department for continuing education programs for tuition and books, provided that the policy will be carried out under the following guidelines:

(A) The Department Head shall have the discretion to use such training funds in accordance with departmental priorities and available funding. However, training requests shall have concurrence of the Human Resources Department prior to obligation of funds for tuition and books;

(B) Funds must be budgeted in the Human Resources Department's Training Account 602 prior to use. The employee's department will be responsible for any travel and per diem incurred, subject to the City's Conference and Travel Policy;

(C) The employee proposing to take any course shall provide through his/her Department Head, a written description of the course to be taken. If approved by the Department Head, the request will be forwarded to the Human Resources Department;

(D) If an approved course is directly relevant to and consistent with an employee's current job functions, the City will pay, upon successful completion, fifty percent (50%) of the total cost, subject to the limits in Section 16.7 (F), to the employee, for tuition and books involved. In order to have successfully completed a course, the employee must have received a "C" or better in the course. Whether or not the course is directly relevant to and consistent with the employee's current job functions will be determined by the Department Head, subject to the approval of the Human Resources Department;

(E) The City will not reimburse, any percentage, for a course that is not directly relevant to and consistent with the employee's current job functions;

(F) A City employee shall be reimbursed no more than \$1500 per fiscal year for tuition and books;

(G) No course shall be taken during working hours, unless recommended by the Department Head and approved by the Mayor prior to enrollment;

(H) An employee shall certify that he/she is not receiving federal, state, or other public funds for such course prior to payment by the City of Huntsville. An employee receiving such funding shall not be eligible for reimbursement under this policy; and,

(I) Employees resigning from the City shall reimburse the City for all training funds expended under this policy by the City on their behalf within the three (3) year period immediately preceding such employee's resignation. All employees, electing to use City training funds, shall agree, in writing, to reimburse the City as provided above. This obligation of an employee to repay training funds may be waived upon recommendation by the Director of Human Resources and approval of the Mayor, if determined that such payment would be against equity and good conscience or against the public interest.

16.8 RESPONSIBILITIES

(A) The Human Resources Department will:

- (1) Plan, develop, and coordinate the City's employee development and training program;
- (2) Provide staff advice and assistance to management and employees in all areas of employee development and training;
- (3) Make necessary arrangements for training, except for specialized and routine functional training applicable to the department concerned (*i.e.*, Police and Fire Training);
- (4) Monitor the annual budget for training requirements;
- (5) Maintain records;
- (6) Process all requests for training; and,
- (7) Provide assistance with specialized training problems or formal courses needed to support City related activities and functions.

(B) Department Heads/Division Managers will:

- (1) Be alert to the development of employees and contribute to that development through the utilization of appropriate training opportunities;
- (2) Initiate timely actions for training of employees on "Request for Approval of Training" Form. Requests must be received by Human Resources at least fifteen (15) workdays prior to the course starting date;
- (3) Assure that employees will be excused from duty, if appropriate, to attend scheduled training;
- (4) Evaluate training through a comparison of the employee's pre-training and post-training performance and the benefits to the organization;
- (5) Initiate a memorandum through channels to the Department of Human Resources outlining specific and justifiable reasons for an employee's non-availability for scheduled training or for changing or dropping a course, *etc.*; and,
- (6) Follow-up on effectiveness of training and its application.

(C) Employees will:

- (1) Exercise initiative in personal development; discuss training needs with their supervisors; apply to their jobs knowledge gained through training; and, fulfill all obligations incurred as a condition of receiving training;
- (2) Personally secure admission to the college or university before requesting approval of graduate/undergraduate training;

(3) Satisfactorily complete all training for which enrolled or request their immediate supervisor to notify the Human Resources Department by memorandum, through channels, of specific and justifiable reasons for not doing so. Where the employee fails to satisfactorily complete training for which he/she is enrolled, the employee will be required to repay the City all irretrievable costs incurred except salary. The Mayor based on extenuating or unavoidable circumstances may grant a waiver in some instances;

(4) Officially drop a course at a university or college or other non-government facility, if unable to attend, to prevent accrual of additional cost; and,

(5) Report to the Human Resources Department any degree or other qualifying training received. It is the employee's responsibility to help ensure that training received is properly noted in the employee's personnel file.

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 17

PERSONNEL RECORDS OF CITY EMPLOYEES

17.1 MAINTENANCE AND RETENTION OF RECORDS

The Director of Human Resources shall be responsible for the maintenance of official personnel records, including the original application for employment, the results of all tests and examinations administered by Human Resources taken to demonstrate qualifications, the employment history, current employment status, record of disciplinary actions, and other records pertinent to the employee's service.

17.2 OFFICIAL EMPLOYEE PERSONNEL FOLDER

An official personnel folder will be maintained on each employee of the City of Huntsville. The folder will contain copies of official documents relating to the individual's employment with the City. Supervisors may review the folders when necessary for official purposes. The folders will not be removed from the Department of Human Resources. Supervisors must come to the Department of Human Resources to review the files. An employee may review his/her file, upon request, but may not review the files of other employees (except in official capacities as supervisors). If an employee wishes to view his/her own file, the employee should ask the appropriate supervisor to arrange an appointment to visit the Human Resources Department for the purpose.

17.3 EMPLOYEE MEDICAL RECORDS AND HEALTH INFORMATION

Medical records and health information (as defined by 45 CFR Part 160.103, HIPAA Privacy Regulations) of the employee shall be maintained separately from the employee's official personnel folder and shall be considered to be confidential in nature. Medical records and such health information shall be accessed, used, and disclosed only in those circumstances as provided in these policies and procedures or as otherwise provided for by federal, state, or local law or regulation. The Mayor shall designate in writing one or more Privacy Officials as contemplated by HIPAA Privacy Regulations, who shall be charged with the responsibility for the development and implementation of the specific written policies, procedures and practices relating to the access, use, and disclosure of employee health information. Such written policies and procedures shall be approved by the Mayor and made available to all employees. The Mayor shall designate in writing a contact person or office responsible for receiving complaints regarding access, use, or disclosure of employee medical records and health information.

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 18

DRUG AND ALCOHOL POLICIES (ORD. 08-776) (ORD. 09-26) (ORD. 10-922) (ORD. 15-838)

18.1 DRUG-FREE WORKPLACE ACT STATEMENT AND POLICY

The federal government requires recipients of federal funds to notify its employees of its commitment to maintain a drug-free workplace. Pursuant to the Drug-Free Workplace Act of 1988, the City of Huntsville has certified to maintain a drug-free workplace. Employees are hereby notified that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the City of Huntsville workplace and considered to be a violation of the City's Drug and Alcohol Policies and Drug-Free Workplace Act Certification. All employees are to abide by the terms of these policies. Violations of these policies by an employee shall subject the employee to discipline which shall include suspension without pay, demotion, or termination of employment in accordance with the disciplinary procedures set forth in this Section 18 Drug and Alcohol Policies and in Section 13 Conduct and Disciplinary Policy. Employees shall neither use nor be under the influence of drugs, intoxicants, alcohol, or another controlled substance in the workplace. The City recognizes the importance of maintaining a safe, efficient, and healthful workplace, as well as the social responsibility to provide assistance to its employees to the extent possible. The City recognizes drug abuse as a serious threat to its employees. Substance abuse in the workplace may result in poor work attendance, unsatisfactory job performance, and may also create safety hazards for employees and the public at large. Therefore, employees are expected to report to work free from unlawful drugs that could inhibit their ability to perform their duties, could cause a workplace accident, or could cause the employee to endanger the lives of the employee or others. The City maintains a drug free awareness program which is administered by the Department of Human Resources through its Employee Assistance Program (see Section 19). All employees are encouraged to contact the Department of Human Resources to learn more about drug awareness.

The Drug-Free Workplace Act, Public Law 100-690, Title V, Subtitle D (41 USC §§ 701-707) makes it a condition of employment that all City employees abide by the terms of this statement of policy and that each employee notify the City (the employee's immediate supervisor, Department Head, or the Human Resources Director) of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. Within ten (10) days of receiving notice of conviction, the City will notify the appropriate federal contracting or granting agency, if any, as required. Within thirty (30) days of notice of the workplace drug conviction, the employee is required to satisfactorily participate in a drug abuse assistance or rehabilitation program that has been approved by a federal, state, or local health, law enforcement, other appropriate agency, or the City's Health Center Resources and Program Manager. Additionally, the City shall initiate appropriate disciplinary action against such employee up to and including termination. Definitions for the terms used in this Section 18.1 Drug-Free Workplace Act Statement shall be in accordance with 41 USC §706.

18.2 DRUG AND ALCOHOL TESTING AS REQUIRED BY THE FEDERAL TRANSIT ADMINISTRATION (FTA) AND BY THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)

This drug and alcohol testing program complies with the requirements established in the U.S. Department of Transportation (DOT), 49 C.F.R. Part 40, as amended; the Federal Transit Authority (FTA), 49 C.F.R. part 655; and the Federal Motor Carrier Safety Administration (FMCSA), 49 C.F.R. part 382. Most of the requirements of the FMCSA regulations parallel the FTA regulations. Accordingly, the following policies and procedures enumerated hereinafter govern the conduct of the employees that fall within the regulatory purview of both the FTA and the FMCSA. However, those provisions which apply only to those employees that fall within the regulatory purview of the FMCSA shall appear in italics.

The City of Huntsville acknowledges the problem of drug and alcohol abuse in our society. Furthermore, the City recognizes drug and alcohol abuse as a serious threat to its employees. Substance abuse in the workplace may result in poor work attendance or unsatisfactory job performance and may also create safety hazards for employees and the public at large. It is the intention of the City to implement a FTA/FMCSA Drug and Alcohol Policy that will allow the City to effectively detect substance abuse by its employees. The City's goal is the following: (i) to ensure that its employee's ability to perform his/her job is not adversely affected or impaired; (ii) to create a workplace environment free from the adverse effects of drug and alcohol abuse; (iii) to prohibit the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace; and, (iv) to comply with all relevant and pertinent laws and regulations. In an effort to meet these goals, the City is adopting this FTA/FMCSA Drug and Alcohol Policy. Participation by employees covered by this Policy in the City's FTA/FMCSA Drug and Alcohol Policy is required and is a condition of employment.

The City's contact person for information about this FTA/FMCSA Drug and Alcohol Policy is Pamela M. Stephens. She may be reached by telephone at (256) 883-3726.

(A) Prohibited Behavior

It shall be a violation of this policy for any employee defined as safety-sensitive within this FTA/FMCSA Drug and Alcohol Policy to engage in any of the following prohibited behavior:

- (1) Report for duty or remain on duty while having an alcohol concentration of 0.02 or greater;
- (2) Use alcohol while performing safety-sensitive functions;
- (3) Use alcohol within four (4) hours prior to performing safety-sensitive functions or while being "on-call" to perform safety-sensitive functions;

- (4) Report for duty or remain on duty while using, being under the influence of, or possessing prohibited drugs, including marijuana, cocaine, amphetamines, phencyclidine (PCP) and opiates, as may be amended from time to time by DOT in 49 C.F.R. Part 40, Section 40.87;
- (5) Alter, adulterate, or dilute or attempt to alter, adulterate, or dilute urine specimens;
- (6) Substitute or attempt to substitute a urine specimen;
- (7) Perform safety-sensitive functions within four (4) hours after using alcohol;
- (8) Refuse to take, consent to, submit to, or complete any drug or alcohol test as required by this FTA/FMCSA Drug and Alcohol Policy;
- (9) If required by this policy to take a post-accident test for alcohol, use alcohol within eight (8) hours following the accident or eight (8) hours before undergoing the post-accident alcohol test, whichever occurs first;
- (10) Allowing an employee known to be in violation of these rules to perform or continue to perform safety-sensitive functions;
- (11) *Report for duty or remain on duty requiring the performance of safety-sensitive functions as a FMCSA covered driver while using any controlled substance, except when the use is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;*
- (12) *Report for duty, remain on duty, or perform safety-sensitive functions as a FMCSA covered driver after having tested positive for a controlled substance;*
- (13) *Be on duty or operate a commercial motor vehicle while possessing alcohol, unless the alcohol is manifested and transported as part of a shipment;*
- (14) *Be under the influence of alcohol, or have any measured alcohol concentration or detected presence of alcohol, while on duty, or operating, or in physical control of a commercial motor vehicle; or,*
- (15) Violate or fail to comply with any provisions, terms, conditions, procedures, or requirements of this policy.

(B) Covered Employees

- (1) FTA employees

The FTA regulations apply to any employee who performs or will perform a safety-sensitive function. Under the FTA regulations, an employee is considered to be safety-sensitive if the employee's job functions include any of the following types of functions or duties:

- (a) Operating a revenue service vehicle, including when not in revenue service;
- (b) Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
- (c) Controlling dispatch or movement of a revenue service vehicle;
- (d) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; and,
- (e) Carrying a firearm for security purposes.

(2) *FMCSA employees*

The FMCSA regulations apply to any employee who performs or will perform a safety-sensitive function. Under the FMCSA regulations an employee is considered to be safety-sensitive if the employee operates a commercial motor vehicle in commerce in any State, and is subject to commercial driver's license requirements. (Please note that the FMCSA regulations do not apply to employees covered under the FTA.) Safety-sensitive job functions include any of the following types of functions or duties:

- (a) All time at an employer 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;*
- (b) All time inspecting equipment or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;*
- (c) All time spent at the driving controls of a commercial motor vehicle in operation;*
- (d) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;*
- (e) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and,*
- (f) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.*

Employees occupying positions requiring the performance of the functions identified above as safety-sensitive shall be considered to be safety-sensitive employees, and shall be notified that they are in such positions and, therefore,

subject to mandatory drug and alcohol testing. Human Resources shall maintain a listing designating which job classifications/positions within the City are considered to be safety-sensitive. Further, a Department Head or Division Manager who believes that a job position has safety-sensitive functions, as identified within this policy, shall identify each such position and submit it to the City's Health Center Resources and Program Manager who, in consultation with the City Attorney's Office and Human Resources Director, shall review the request before certifying that a position is safety-sensitive.

(C) Mandatory Testing

Drug and alcohol testing is mandatory for all safety-sensitive employees. The various types of testing required under the FTA and the FMCSA include pre-employment testing, reasonable suspicion testing, post-accident testing, random testing, return to duty testing, and follow-up testing.

(1) Pre-employment testing

Mandatory drug (not alcohol) testing shall be required for all applicants who have received a contingent offer of employment for a safety-sensitive position, all City employees transferred to a safety-sensitive position, and all City employees who are promoted into a safety-sensitive position, if they are currently working in a non-safety-sensitive position. The drug test of the employee or applicant must result in a verified negative result in order for the employee or applicant to be placed in the safety-sensitive position. If a pre-employment drug test is canceled, the employee shall submit to another pre-employment drug test. The pre-employment drug test must be completed and must return a verified negative result in order for the employee or applicant to be placed in the safety-sensitive position. An employee who has a verified positive drug test result or equivalent based on promotional testing shall be subject to return to duty and follow-up testing imposed by these policies and federal regulations and guidelines. Further, if an employee assigned to a safety-sensitive position has previously failed or refused a pre-employment drug test, the employee must provide the employer with proof that he or she has successfully completed a referral, evaluation and treatment plan as provided in 49 C.F.R. Part 40, as amended.

Further, each applicant or employee who seeks a safety-sensitive position must provide a written consent which permits his or her previous employers to release drug and alcohol testing information to the City. If the previous employers do not have the necessary documentation relating to any alcohol test results of 0.04 concentration or greater; verified positive drug tests; refusals to test; other violations of the FTA/DOT regulations; and/or, as appropriate, documentation of the successful completion of DOT return-to-duty requirements including follow-up testing, then the applicant or employee must provide the documentation. If the applicant or employee refuses to provide the required written consent, the applicant or employee will not be placed in the safety-sensitive position.

Also, if an employee assigned to a safety-sensitive position has not performed a safety-sensitive function for ninety (90) consecutive calendar days regardless of the reason, and has not been included in the City's selection pool for random

drug testing, the employee must submit to a pre-employment drug test. The test must return a verified negative result before the employee may return to safety-sensitive duty.

(2) Reasonable suspicion testing

A Department Head, Division Manager, or supervisor who has been trained to detect the symptoms of drug use and alcohol misuse may request and authorize the drug or alcohol testing of a safety-sensitive employee. A drug and/or alcohol test is authorized under this subsection only when there is a "reasonable suspicion" to believe that the employee has used a prohibited drug as defined herein or that the employee violated the prohibitions relating to alcohol usage identified in this policy.

The determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the employee including, but not limited to, the following:

- (a) The presence of recognizable physical symptoms of drug or alcohol use, e.g., slurred speech, bloodshot eyes, alcohol on breath, inability to stand or to walk a straight line;
- (b) Indications of the chronic and withdrawal effects of controlled substances;
- (c) Direct knowledge or observation of drug or alcohol use or possession, or possession of drug paraphernalia; or,
- (d) Aberrant conduct or behavior that is so unusual that it warrants summoning a supervisor or other assistance.

Alcohol testing under this subsection is authorized only if the observations leading to a determination of reasonable suspicion are made during, just preceding, or just after the period of the performance of safety-sensitive functions. Employees to be tested for reasonable suspicion with regard to alcohol misuse shall be escorted to the testing site by a supervisor, or the supervisor's designee, as soon as possible so that the test may be administered within two (2) hours of the determination to test. The supervisor who made the determination that reasonable suspicion exists shall not administer the breath alcohol test. If the alcohol test is not administered within two (2) hours following the determination of reasonable suspicion the supervisor or the supervisor's designee shall prepare and maintain on file a record stating the reason the alcohol test was not promptly administered. If the alcohol test is not administered within eight (8) hours of the determination to test, the efforts to administer the test shall cease, and the Health Center Resources and Program Manager shall maintain a record on file stating the reasons for failing to administer the test.

Pursuant to City policy, the determination that reasonable suspicion exists must be set out in writing based on the observations as indicated above.

An employee who has a verified positive drug or alcohol test result or equivalent based on reasonable suspicion testing shall be subject to return to duty and follow-up testing imposed by these policies and federal regulations and guidelines.

(3) Post-accident testing

Drug and alcohol testing shall be required as soon as practicable of all employees who are defined as safety-sensitive employees in the following circumstances:

(a) Fatal accidents. Following an accident involving the loss of human life as the result of the operation of a mass transit vehicle *or a commercial motor vehicle*, each surviving safety-sensitive employee shall be tested for the presence of drugs and alcohol. Any other safety-sensitive employee whose performance could have contributed to the accident (e.g., maintenance personnel) shall be tested for the presence of drugs and alcohol, as determined by the Department Head, Division Manager, or supervisor using the best information available at the time of the decision;

(b) Non-fatal accidents. Each employee involved in the operation of a mass transit vehicle *or a commercial motor vehicle* at the time of a non-fatal accident shall submit to drug and alcohol tests. A non-fatal accident is one in which: (i) an individual suffers bodily injury, and requires immediate medical treatment away from the scene of the accident; or, (ii) the mass transit vehicle or other vehicles involved in the accident suffer disabling damage which precludes departure from the scene of any involved vehicle by its usual manner of operation in daylight after simple repairs; (iii) or damage to any vehicle that could have been operated but which would have further damaged the vehicle if so operated; Post-accident testing is not required following a non-fatal accident, if the Department Head, Division Manager, or supervisor, using the best information available at the time, determines that the performance of the employee or employees can be completely discounted as a contributing factor to the accident. The decision not to administer a drug or alcohol test, including a description of the decision-making process, must be documented and maintained on file. An alcohol test required under this subsection must be administered within two (2) hours following the accident. If the test is not administered within two (2) hours, the supervisor shall prepare and maintain on file a record stating the reasons the alcohol test was not promptly administered. If the alcohol test is not administered within eight (8) hours of the determination to test, the efforts to administer the test shall cease, and the Health Center Resources and Program Manager shall maintain a record on file stating the reasons for failing to administer the test. Further, an employee required to submit to an alcohol test under this subsection may not use alcohol for eight (8) hours following the accident. If an employee who is subject to post-accident alcohol testing fails to remain readily available for such testing, including notifying his/her supervisor(s) of his/her location if he or she leaves the scene of the

accident prior to submission to such test, it may be regarded as a refusal on the part of the employee to submit to testing.

A drug test required under this subsection must be administered within thirty-two (32) hours of the accident. If the drug test is not administered within thirty-two (32) hours of the determination to test, the efforts to administer the test shall cease, and the Health Center Resources and Program Manager shall maintain a record on file stating the reasons for failing to administer the test.

FMCSA additional requirement. In the case of an accident involving a commercial motor vehicle, each surviving driver who receives a citation under State or local law for a moving traffic violation arising from the accident shall be tested for alcohol and controlled substances.

In the event that the City is unable to perform the required post-accident tests within the required time frames, the results of a blood, urine, or breath test conducted by federal, state, or local officials having independent authority for the test shall be considered to meet the requirements of this subsection, provided such tests conform to the applicable federal, state, or local testing requirements, and the result of these tests are obtainable by the City.

Nothing contained herein shall be construed to require the delay of necessary medical attention for injured people following an accident, to prohibit a covered employee from leaving the scene of an accident for a period of time necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

(4) Random testing

All safety-sensitive employees shall be tested on a random basis in accordance with federal protocol. The testing dates and times shall be unannounced and shall occur with unpredictable frequency throughout the year. With respect to random alcohol testing, an employee shall be randomly tested only while the employee is performing safety-sensitive duties, just prior to the performance of safety-sensitive duties, or just after the performance of safety-sensitive duties has ceased. With respect to random drug testing, an employee shall be randomly tested anytime while on duty.

The selection of safety-sensitive employees for random drug testing shall be made by a random computer selection process utilizing assigned employee numbers. Employee names will not be utilized in the random computer selection process. Human intervention in this process shall be limited to the programming of the computer. Under the selection process used, each covered employee shall have an equal chance of being tested each time selections are made. As a result of the random nature of the selection process, an employee may be randomly tested more than once in any given year or not at all.

A safety-sensitive employee selected for a random test shall be notified by his/her Department Head, Division Manager, or designated official to submit to a drug and/or alcohol test on the day of the test, immediately preceding the test. Once notified, the employee shall cease performance of his or her duties and immediately report to the testing site. An employee selected for a random test who is absent due to vacation, sick leave, other leave, or on urgent City business approved by his/her Department Head or Division Manager will not be notified to take the drug and/or alcohol test until the first day he/she returns to work after being randomly selected, even if the first day back occurs in a later month.

(5) Return to duty testing

Before returning to duty, each safety-sensitive employee: (i) who has refused to consent to or to take a drug or alcohol test, (ii) who has a verified positive drug test result, (iii) who has been found to have an alcohol concentration of 0.02 or greater during duty; or, (iv) who has otherwise violated the rules of this policy shall be required to undergo a return to duty drug test and/or a return to duty alcohol test, as applicable. In the case of an employee who has been found to have an alcohol concentration between 0.02 and 0.39, the employee may not return to duty until a minimum of eight (8) hours has elapsed, or until obtaining a test result indicating an alcohol concentration of less than 0.02. In the case of an employee who has been found to have an alcohol concentration of 0.04 or greater, the employee may not return to duty until obtaining a test result indicating an alcohol concentration of less than 0.02.

For each safety-sensitive employee who has refused to consent to or to take a drug test, has a verified positive drug test result, or has a positive alcohol test result of 0.04 or greater, before returning to safety sensitive duties, the employee must have signed a Return to Duty Agreement with the City of Huntsville that enumerates the recommendations of the Substance Abuse Professional (SAP) concerning treatment for the employee. The agreement must have been signed by the employee, the Health Center Resources and Program Manager and the SAP. The employee must have been evaluated by a Substance Abuse Professional (SAP) to determine whether the employee has properly followed the recommendations for action set out in the Return to Duty Agreement, including participation in an SAP recommended educational program or rehabilitation program and have a verified negative result on a return to duty drug or alcohol test.

(6) Follow-up testing

Each safety-sensitive employee who has been subject to return to duty testing shall be subject to unannounced follow-up drug testing and/or alcohol testing as directed by a SAP. The number and frequency of such follow-up testing shall be as directed by the SAP and shall consist of at least six (6) tests in the first twelve (12) months

following the employee's return to duty. Follow-up testing should be conducted just before, during, or after the employee is performing safety-sensitive functions. Follow-up testing shall not exceed sixty (60) months from the date of the employee's return to duty.

Employees to be tested under the provisions for post-accident testing, random testing, return to duty testing, or follow-up testing should be escorted to the testing site by a supervisor or the supervisor's designee.

(D) Submission To Drug and/or Alcohol Testing Required

An employee may not refuse to submit to a drug or alcohol test. A refusal to submit to testing shall be treated as though the employee tested positive for drugs or alcohol, and shall include one or more of the following consequences:

(1) Any employee defined as a safety-sensitive employee by this FTA/FMCSA Drug and Alcohol Policy who refuses to submit to a drug or alcohol test based on reasonable suspicion will not be permitted to continue his/her work shift and may be detained for a reasonable period of time until the employee can be safely transported home. Such an employee, subject to the discretion of his/her Department Head or Division Manager, may be: (i) placed on leave with pay until after the disposition of his/her disciplinary hearing; (ii) temporarily reassigned; or, (iii) requested to report back to work;

(2) Any employee defined as a safety-sensitive employee by this FTA/FMCSA Drug and Alcohol Policy who is subject to post-accident testing as defined by subsection 18.2(C)(3) and who refuses to submit to a drug or alcohol test shall be relieved of his/her job duties for the remainder of his/her shift or as otherwise provided herein; and, subject to the discretion of his/her Department Head or Division Manager, may be: (i) reassigned temporarily or (ii) placed on leave with pay until after the disposition of his/her disciplinary hearing;

(3) Any City employee requesting a transfer to a safety-sensitive position as defined by this FTA/FMCSA Drug and Alcohol Policy who refuses to consent to or to take a drug or alcohol test as may be required shall not be considered for the transfer;

(4) Any applicant for a safety-sensitive position as defined by this FTA/FMCSA Drug and Alcohol Policy who refuses to consent to or to take a drug test shall not be considered for the position;

(5) Any employee defined as a safety-sensitive employee who refuses to submit to a drug or alcohol test upon being randomly selected for such test may be placed on leave with pay, or may be temporarily reassigned, subject to the discretion of his/her Department Head or Division Manager, pending the disposition of his/her disciplinary hearing; or,

(6) Any employee defined as a safety-sensitive employee who refuses to submit to return to duty or follow-up testing as required pursuant to this policy may be reassigned temporarily or may be placed on leave with pay

subject to the discretion of his/her Department Head or Division Manager pending the disposition of his/her disciplinary hearing.

(E) Refusal To Test Defined

A refusal to submit to a drug or alcohol test includes any one or more of the following:

- (1) Failure to appear within a reasonable time or failure to remain at the testing site until the testing is completed. (In the case of a pre-employment test, leaving prior to the commencement of the testing process, failure to appear, or aborting the collection before the test commences shall not be considered a refusal to test);
- (2) Failure to remain at the testing site until the testing process is completed;
- (3) Failure to complete a drug or alcohol test;
- (4) Failure to provide an adequate urine sample for a drug test or an adequate breath sample for an alcohol test without a valid medical explanation;
- (5) Engaging in behavior that obstructs or avoids the testing;
- (6) Failure to permit observation or monitoring of a drug test in the event such is required;
- (7) Failure to undergo a medical examination or evaluation directed by the Medical Review Officer (MRO) as part of the verification process. This subsection applies to all types of mandatory testing, including, but not limited to, pre-employment testing involving an applicant who has received a contingent offer of employment for a safety-sensitive position;
- (8) Determination by the MRO that the specimen has been adulterated or substituted;
- (9) Failure to relinquish items that could possibly contain adulterating or diluting agents;
- (10) Failure to undergo a second test, if required;
- (11) Failure to sign the certification at Step 2 of the Alcohol Testing Form;
- (12) Failure to cooperate with any part of the testing process; or,
- (13) Leaving the scene of an accident without just cause prior to submitting to a drug and alcohol test.
- (14) Failure to follow the observer's instructions during an observed collection including 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;

(15) Possess or wear a prosthetic or other device that could be used to interfere with the collection process; and

(16) Admit to the collector or MRO that you adulterated or substituted the specimen.

A refusal to test shall be treated as though the employee's urine or breath sample returned a positive result, and shall bear the same consequences of a positive test result.

(F) Observed Collections

Observed collections are required in the following circumstances:

(1) Anytime the employee is directed to provide another specimen because the temperature on the original specimen was out of the accepted temperature range of 90F -100F;

(2) Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with;

(3) Anytime a collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;

(4) Anytime the employee is directed to provide another specimen because the laboratory reported to the MRO that the original specimen was invalid and the MRO determined that there was not an adequate medical explanation for the result;

(5) Anytime the employee is directed to provide another specimen because the MRO determined that the original specimen was positive, adulterated or substituted, but had to be cancelled because of the test of the split specimen could not be performed.

(G) Procedures for Alcohol Testing

Prior to all alcohol testing, the employee shall be notified that the test is required under 49 C.F.R. Part 40, as amended.

The breath test shall primarily be performed at the City of Huntsville's Health and Wellness Center by the Nurse or the City's Drug and Alcohol Screening Technician or by one otherwise trained and qualified to conduct such testing. When a breath test is required by this policy, the following guidelines and procedures shall be followed:

(1) The collector shall not be an individual with direct or indirect supervisory control over the employee to be tested;

(2) The breath testing device shall be a breath analysis machine selected from those listed on the Conforming Products List of Evidential Breath Measurement Devices as published by the National Highway Traffic Safety Administration, Department of Transportation; and,

(3) All procedures for conducting an alcohol breath test shall be in conformance with the DOT and the FTA regulatory requirements governing such testing for employees performing safety-sensitive functions. Alcohol concentration levels included within this policy for the purpose of determining a positive test result are as set forth in the federal regulations. Therefore, any changes in those federal regulations shall govern and take precedent over the procedures and concentrations considered as positive. If a breath test cannot be administered, the employee must be removed from performing safety-sensitive duties for at least eight (8) hours.

Any result of 0.02 or greater alcohol concentration is considered a positive test. Employees in safety-sensitive positions who have an alcohol test result of 0.02 to 0.039, when tested just before, during, or after performing safety-sensitive functions, must be immediately removed from performing such duties for eight (8) hours or until another breath test is administered and the result is less than 0.02. *Commercial motor vehicle drivers must be removed from driving for at least twenty-four (24) hours.*

A safety-sensitive employee who is found to have an alcohol concentration of greater than 0.02 but less than 0.04 shall be immediately removed from all safety-sensitive duties, and may not be allowed to return to the performance of safety-sensitive duties until (i) the employee's alcohol concentration measures less than 0.02 or (ii) the start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following the administration of the test.

If an employee has an alcohol test result of 0.04 or greater, the employee cannot return to safety-sensitive duties until a Substance Abuse Professional (SAP) has evaluated him or her. Once the evaluation is completed and the SAP has recommended whether a treatment program or educational program is appropriate, the SAP will ensure that treatment or education is coordinated. A follow-up evaluation is conducted to ensure that the employee complied with the SAP's recommendations. If the SAP's recommendations were followed, the SAP would then recommend a return to duty test date. If the employee does not comply with the recommendations, the SAP will not authorize a return to duty test date until the employee has complied. Failure of a safety-sensitive employee to comply with the recommendations of the SAP shall constitute a violation of this policy and shall subject the employee to further disciplinary action. Each time an employee in a safety sensitive position engages in prohibited alcohol conduct, he or she will be evaluated by a SAP.

In the event an employee tests positive for alcohol, arrangements shall be made to deliver the employee home. An employee whose test results are below the concentration established for a positive test result shall report back to work, unless otherwise directed by his/her Department Head or Division Manager.

An employee testing under this procedure is subject to temporary reassignment by his/her Department Head or Division Manager pending the disposition of his/her disciplinary hearing.

(H) Procedures for Drug Testing

The drugs for which testing is required under this policy are marijuana, cocaine, amphetamines, phencyclidine (PCP), and opiates, as may be amended from time to time by DOT in 49 C.F.R. Part 40, Section 40.87. When an urinalysis is required by this policy, it shall be conducted and evaluated in accordance with the standards, procedures, and protocol adopted for drug testing by the DOT in 49 C.F.R. Part 40, as amended. Such guidelines include the following procedures:

(1) The collector shall not be an individual with direct or indirect supervisory control over the employee to be tested;

(2) The primary collection site for collecting the urine specimen for testing shall be the City of Huntsville Health and Wellness Center. The site shall be maintained with the necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, temporary storage, and transportation of urine specimens to a drug testing laboratory;

(3) In order to promote the security of specimens, avoid distraction of the collection site person, and ensure against any confusion in the identification of specimens, a collection site person shall conduct only one collection procedure at any given time. For this purpose, a collection procedure is complete when the urine bottle has been sealed and initialed, the urine custody and control form has been executed, and the applicant or employee has departed the site;

(4) To deter the dilution of specimens at the collection site, toilet bluing agents shall be placed in toilet tanks so the reservoir of water in the toilet bowl always remains blue. Where practicable, there shall be no other sources of water (e.g., no shower or sink) in the enclosure where urination occurs. If there is another source of water in the enclosure, it shall be effectively secured or monitored to ensure it is not used (undetected) as a source for diluting the specimens. A separate method for washing hands shall be provided. No soap disinfectants, cleaning agents, or other possible adulterants shall be present. The collection site shall be inspected to ensure that no foreign unauthorized substances are present. There shall be only one access to the testing site;

(5) Specimen validity testing will be conducted by the City's designated drug testing laboratory on all urine specimens provided for testing under DOT authority. Specimen validity testing is the evaluation of the specimen

to determine if it is consistent with normal human urine. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

(6) When an applicant or employee arrives at the collection site, the collection site person shall ensure that the applicant or employee is positively identified as the employee or applicant selected for testing. Acceptable forms of identification are a photo ID issued by the employer or a federal, state, or local government (e.g., driver's license). Faxes or photocopies are not acceptable. A positive identification by an employer representative (not a co-worker or another employee who is also being tested) is also acceptable identification. If the applicant's or employee's identity cannot be established, the collection site person shall not proceed with the collection;

(7) If the applicant or employee fails to arrive at the assigned time, the collection site person may contact the Health Center Resources and Program Manager, or his/her designee, to obtain guidance on the action to be taken;

(8) As soon as the employee arrives at the collection site the testing process should commence without undue delay. If the employee is also to take an alcohol test, to the greatest extent possible, the alcohol test should be completed prior to the urine collection;

(9) When the employee arrives at the collection site, the collection site person shall explain the collection procedure to the employee, including showing the employee the instructions on the back of the Federal Drug Testing Custody and Control Form (CCF);

(10) The collection site person may ask the applicant or employee to remove any unnecessary bulky outer garments such as a coat, vest, or jacket that might conceal items or substances that could be used to tamper with or adulterate the applicant's or employee's urine specimen. The collection site person must also ask the employee to empty his or her pockets in order to ensure that there are no items which could adulterate or dilute the specimen. If no such items are found, the pocket contents may be returned to the pockets. The collection site person shall ensure that all personal belongings such as purses, bags, briefcases, and other containers remain with the outer garments and are not carried into the test area. Such items shall be left in an agreed upon location. The employee may request a receipt for items not allowed in the testing area. A refusal to relinquish such items shall be considered a refusal to test. The applicant or employee may retain his/her wallet;

(11) The collection site person shall direct a collection under direct observation from the employee if the drug test is a return-to-duty or a follow-up test. The collection site person shall request that the employee raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show the collection site person, by turning around, that the employee does not have a prosthetic

device. After the collection site person determines that the employee does not have such a device, he/she may permit the employee to return clothing to its proper position for observed urination;

(12) As the observer, you must watch the employee urinate into the collection container. Specifically, you are to watch the urine go from the employee's body into the collection container;

(13) As the observer but not the collector, you must not take the collection container from the employee, but you must observe the specimen as the employee takes it to the collector;

(14) The applicant or employee shall be instructed to wash and dry his/her hands prior to urination;

(15) After washing his/her hands, the applicant or employee shall remain in the presence of the collection site person and shall not have access to any water fountain, faucet, soap dispenser, cleaning agent, or any other materials which could be used to adulterate the specimen;

(16) The applicant or employee shall provide his/her specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy, unless direct observation is required;

(17) Catheterization may not be used to collect a urine specimen unless an employee normally voids through self-catheterization in which case the employee is required to provide a specimen in that manner. A refusal to give a sample in that manner shall constitute a refusal to test;

(18) The collection site person shall note any unusual behavior or appearance on the CCF;

(19) In the exceptional event that an employer designated collection site is not accessible and there is an immediate requirement for specimen collection (e.g., an accident investigation), a public rest room may be used according to the following procedures: a collection site person of the same gender as the applicant or employee shall accompany the applicant or employee into the public rest room which shall be made as secure as possible during the collection procedure. If possible, a toilet bluing agent shall be placed in the bowl and any accessible toilet tank. The collection site person shall remain in the rest room, but outside the stall, until the specimen is collected. If no bluing agent is available to deter specimen dilution, the collection site person shall instruct the applicant or employee not to flush the toilet until the specimen is delivered to the collection site person. After the collection site person has possession of the specimen, the applicant or employee will be instructed to flush the toilet and to participate with the collection site person in completing the chain of custody procedures;

(20) The applicant or employee shall be asked to read and sign a statement on the CCF certifying that the specimen identified as having

been collected from him or her is in fact the same specimen he or she provided;

(21) The collection site person shall complete the chain of custody portion of the CCF to indicate receipt from the applicant or employee, and shall certify proper completion of the collection;

(22) The collection site person shall not leave the collection site before the presentation of the specimen by the applicant or employee, the securing of the sample with an identifying label bearing the applicant's or employee's specimen identification number (shown on the CCF), and the sealing and initialing by the applicant or employee is completed. If it becomes necessary for the collection site person to leave the site during this interval, the collection shall be nullified and, at the election of the City, a new collection begun;

(23) To the maximum extent possible, collection site personnel shall keep the applicant's or employee's specimen bottle within sight both before and after the applicant or employee has urinated. After the specimen is collected, it shall be properly sealed and labeled. The CCF shall be used for maintaining control and accountability for each specimen from the point of collection to final disposition of the specimen. The date and purpose shall be documented on an approved CCF each time a specimen is handled or transferred and every individual in the chain shall be identified. Every effort shall be made to minimize the number of individuals handling specimens;

(24) If the applicant or employee refuses to cooperate with the collection process (e.g., refusal to provide a complete specimen, complete paperwork, initial specimen, etc.) the collection site person shall proceed in accordance with the federal regulations;

(25) Upon receiving the specimen from the applicant or employee, the collection site person shall proceed in accordance with the procedures and protocol set forth in the DOT federal regulations;

(26) Whenever there is verification that a particular specimen has been altered, substituted or adulterated, or an employee or applicant attempts to tamper with a specimen, federal protocol will be followed;

(27) Upon receipt of a drug test result indicating that the specimen of an employee or applicant was invalid, with no valid medical explanation, the employee or applicant must immediately provide a new specimen under direct observation without being notified in advance of the need for a second collection. The same reasons for the original test (i.e., pre-employment, return to duty, or follow-up, etc.) shall be attributed to the second testing;

(28) In the case of pre-employment, return-to-duty, or follow-up testing, the employee or applicant shall be directed upon notice of a cancelled test or upon notice that the specimen has been rejected for testing to provide another specimen immediately;

(29) Upon notice of a positive test, the MRO shall interview the employee or applicant to determine whether the positive drug test resulted from a valid medical explanation;

(30) The drug testing laboratories to be utilized under this policy shall be certified according to the Department of Health and Human Services under the National Laboratory Certification Program (NLCP), as may be amended from time to time;

(31) Specimens received by the City's designated laboratory shall be tested at a minimum for the presence of marijuana, cocaine, opiates, amphetamines, and phencyclidine as may be amended from time to time by DOT in 49 C.F.R. Part 40, Section 40.87. The laboratory shall report all test results in writing directly and only to the designated MRO for the City; and,

(32) Following a negative dilute result the employee will be required to undergo another test immediately. If an employee or applicant is directed to take another test, the result of the second test, not that of the original test, becomes the test of record. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO. If the employee or applicant declines to take another test, the employee or applicant has refused the test.

Thereafter, the MRO shall, after verifying the results, report the test results to the Health Center Resources and Program Manager or his/her designee. All results and testing information shall be maintained as confidential by the laboratory. The specimens, tests, and test results are deemed property of the City.

The initial drug screening test shall be a type which is in conformance with the DOT federal regulations which shall be administered at City expense. An employee whose drug test yields an initial positive result shall be given a second test at City expense in conformance with the DOT federal regulations. The second test shall use a portion of the same test sample, provided by the applicant or employee for use in the first test. An employee whose second test confirms the original positive test result may, at the employee's expense, have a third test conducted on the split specimen at a laboratory selected by the employee. The employee must contact the Medical Review Officer within seventy-two (72) hours of notification about the positive test result to request a test on the split specimen and select a laboratory certified and monitored by the Department of Health and Human Services. If the results of the employee's third test do not confirm the positive results of the initial and confirmation test results, then the employee's test results of the split specimen shall be considered negative. Employees do not have access to a test of their split specimen following an invalid test result. A safety-sensitive employee with a verified positive test result shall be removed from safety sensitive duty and shall not be returned to safety-sensitive duties until he or she has been evaluated by a SAP, and he or she has complied with recommended rehabilitation. The employee must also submit to return to duty and follow-up testing.

An employee testing under this procedure is subject to temporary reassignment by his/her Department Head or Division Manager pending the disposition of his/her disciplinary hearing.

Subject to the discretion of the Department Head, Division Manager, or other designated official, arrangements shall be made to transport home an employee who is not directed by his/her Department Head, Division Manager, or other designated official to report back to work. An employee who is not directed to return back to work and who is not reassigned to a nonsafety-sensitive position shall be placed on leave with pay until such time as the employee is directed to return to work.

In the case of an applicant who fails a pre-employment drug test, following a contingent offer of employment to work in a safety sensitive position, the applicant shall be advised as to the resources available for evaluating and resolving problems with prohibited drug use and/or alcohol misuses, including the names, addresses, and telephone numbers of Substance Abuse Professionals and counseling or treatment programs.

(I) Medical Review Officer

A licensed physician or a roster of licensed physicians with knowledge of substance abuse disorders will be selected by the City to act as Medical Review Officer(s) for the City's Drug and Alcohol Program. A Medical Review Officer (MRO) will perform his/her responsibilities in accordance with the federal protocols and procedures for all City employees being tested.

In the performance of his/her responsibilities relative to notification and verification, if the MRO's reasonable efforts to notify the applicant or employee of the test results are not successful, the MRO may contact the Health Center Resources and Program Manager. (The MRO shall document the number of times he/she attempted to contact the applicant or employee.) The Health Center Resources and Program Manager, once contacted by the MRO, shall attempt to contact the applicant or employee and have him or her contact the MRO. The fact that the applicant or employee has been requested to contact the MRO will be held in confidence to the maximum extent practical. The MRO may verify a test as positive or a refusal to test because of adulteration or substitution without having communicated directly with the applicant or employee about the test under the following circumstances:

- (1) The MRO has documented that the applicant or employee expressly declines the opportunity to discuss the test(s);
- (2) The Health Center Resources and Program Manager has successfully made and documented contact with the applicant or employee, has instructed the applicant or employee to contact the MRO, and seventy-two (72) hours have passed since the Health Center Resources and Program Manager made contact with the applicant or employee; or,
- (3) The MRO and the Health Center Resources and Program Manager have thoroughly documented their respective attempts to contact the applicant or

employee, that those attempts have been unsuccessful, and that ten (10) days from the date the MRO received notice of a confirmed test result from the laboratory have passed.

(J) Confidentiality of Test Results

Results of an applicant's or employee's alcohol or drug test(s) are confidential. The drug testing laboratory is prohibited from releasing individual test(s) results to anyone except the designated MRO. The MRO shall make his/her determination/verification of all drug tests prior to disclosure of the results to the Health Center Resources and Program Manager. If the laboratory reports a positive result or a result involving adulteration or substitution to the MRO, the MRO must confidentially contact the employee or applicant (in person or by telephone), and conduct an interview to determine if there is a valid medical explanation for the drugs in the employee's or applicant's urine specimen. If the employee or applicant provides appropriate documentation and the MRO determines that it is legitimate medical use of the prohibited drug, the drug test result is reported as negative to the Health Center Resources and Program Manager. If the employee or applicant refuses to participate in the interview process, or fails to provide appropriate documentation explaining the presence of the drug or drugs found in the urine specimen, the drug test result will be reported as a positive or a refusal to test, as applicable, to the Health Center Resources and Program Manager. The Health Center Resources and Program Manager is the City's custodian of all drug and alcohol test results and, as such, maintains all drug and alcohol test records.

Where the employee has violated this drug and alcohol policy, the Health Center Resources and Program Manager or his/her designee shall notify the employee's Department Head, Division Manager, or his/her designated official and, in the case of applicants, the Department of Human Resources that the policy has been violated. The policy violation may be released to the employee's supervisory chain and their legal representative(s), where necessary, to administer the provisions of this policy, including, but not limited to, disciplinary action associated with a policy violation. In addition, information of the policy violation may be released to the decision maker in a disciplinary action, or in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee tested. Also, the City is required to report results of testing programs to the Department of Transportation (DOT), DOT regulatory authorities, or in some cases the National Transportation Board.

Disclosure of test(s) results to any other person, agency, or organization is prohibited unless written authorization is obtained from the applicant or employee or ordered from an appropriate legal authority. All records relating to the taking of a drug or alcohol test(s) or the order to take a drug or alcohol test(s) shall be kept confidential. The records shall not be made a part of an individual's personnel file; provided, however, in the event of a disciplinary action arising from a positive test result such records may be made a part of the employee's personnel file to the extent that such records form a part of the Finding of Facts of the disciplinary action. The official custodian of all test results shall be the Health Center Resources and Program Manager.

(K) Retention of Records

(1) Records related to test results

In the case of an applicant or employee whose drug or alcohol test results are positive, all collection and test records will be retained for at least five (5) years. Records for an applicant or an employee whose drug or alcohol test results are negative will be retained for at least one (1) year. Such records shall include the following: (i) the employer's copy of the custody and control form; (ii) documents related to the refusal of any covered employee to submit to a required drug or alcohol test; (iii) documents presented by a covered employee to dispute the result of a test administered; and, (iv) any documents relating to a covered employee's entry into and completion of the treatment program recommended by the Substance Abuse Professional.

(2) Records related to the collection process

Records related to the collection process. Such records shall include the following: (i) collection logbooks, if used; (ii) documents relating to the random selection process; (iii) documents generated in connection with decisions to administer reasonable suspicion drug or alcohol tests; (iv) documents generated in connection with decisions on post-accident drug and alcohol testing; and, (v) MRO documents verifying existence of a medical explanation of the inability of a covered employee to provide an adequate urine or breath sample.

(3) Records related to employee training

Records related to employee training shall include the following: (i) training materials on drug use awareness and alcohol misuse, including a copy of the employer's policy on prohibited drug use and alcohol misuse; (ii) names of covered employees attending training on prohibited drug use and alcohol misuse and the dates and times of such training; (iii) documentation of training provided to supervisors for the purpose of qualifying the supervisors to make a determination concerning the need for drug and alcohol testing based on reasonable suspicion; and, (iv) certification that any training conducted under this part complies with requirements for such training.

(4) Copies of annual MIS reports submitted to the FTA shall also be maintained. Further, all records shall be maintained in a secure location with controlled access. See 49 C.F.R. part 655.71.

(L) Disciplinary Proceedings

A safety-sensitive employee who tests positive for drugs or alcohol with a concentration of 0.04 or greater shall be subject to one or more of the following disciplinary actions:

(1) Suspension without pay for ten (10) days or more and successful completion of a SAP recommended education or Drug or Alcohol Treatment Program within eight (8) weeks of beginning the program. The City shall pay in accordance with the Group Health Plan under which the employee is covered;

(2) Demotion and successful completion of a SAP recommended education or Drug or Alcohol Treatment Program within eight (8) weeks of beginning the program. The City shall pay in accordance with the Group Health Plan under which the employee is covered; or,

(3) Termination.

Failure of the employee to complete the SAP recommended education or Drug or Alcohol Treatment Program as referenced within this policy, or failure of the employee to complete additional requirements as recommended by the SAP, (e.g., additional treatment, aftercare or support group services) even after the employee returns to safety-sensitive duties, shall be grounds for further disciplinary action up to and including termination.

The factors to be considered in determining the appropriate disciplinary response include, but are not limited to, the circumstances giving rise to the drug or alcohol test as required herein, the employee's work history, length of employment, current job performance, and the existence of past official disciplinary actions. A safety-sensitive employee who tests positive a second time for drugs or alcohol with a concentration of 0.04 or greater shall be terminated, if the violation is consistent with the Finding of Facts rendered by the Hearing Officer.

An employee, prior to receiving notice of the requirement to be tested, who voluntarily identifies himself or herself as a substance abuser, obtains counseling and rehabilitation through a qualified substance abuse treatment facility approved by the Health Center Resources and Program Manager or the SAP, and thereafter refrains from violating this FTA/FMCSA Drug and Alcohol Policy is not subject to disciplinary action under this policy. However, this provision does not preclude the employee from disciplinary action related to misconduct otherwise in violation of the City's Personnel Policies and Procedures.

(M) Drug Awareness Education Program

The City will conduct a Drug Awareness Education Program for its employees which will inform employees about the dangers of drug and alcohol abuse, the indicators of drug and alcohol use, the City's policy of maintaining a drug-free workplace, and the availability of community drug and alcohol counseling and rehabilitation resources. The program will consist of at least one-hour of training. Safety-sensitive employees will receive a policy statement regarding the City of Huntsville's drug and alcohol abuse policies and testing programs in accordance with 49 C.F.R. part 655 and other applicable regulations, and notification of the positions designated as safety-sensitive.

(N) Covered Employee Training

Covered employees will receive at least one (1) hour of training regarding the effects and consequences of prohibited drug and alcohol use on personal safety, health, and the work environment. Training will also include the identification of symptoms that may indicate the prohibited use of drugs or alcohol. See 49 C.F.R. Part 40, as amended.

(O) Supervisor Training

Supervisory personnel will receive at least one (1) hour of training in identifying the physical, behavioral, speech, and performance indicators of drug use, and one additional hour in identifying the physical, behavioral, and performance indicators of alcohol use among employees. Such training will be directed towards helping supervisors recognize the conduct and behavior that gives rise to a reasonable suspicion of drug or alcohol use.

(P) Health Center Resources and Program Manager Referral

Employees having a verified positive drug test or alcohol test result of 0.04 or greater, or a refusal to test (including the adulteration or substitution of a urine specimen) and who are covered by the Federal Transit Administration or the Federal Motor Carrier Safety Administration shall be referred to a Substance Abuse Professional.

(Q) Interpretations

To the extent that any portion or provision of this policy conflicts with any applicable federal or state laws or regulations, such federal or state laws or regulations will be controlling. Definitions of terms used herein shall be consistent with those set forth in the relevant federal regulations referenced in 49 CFR Part 40, as amended.

This policy shall not be construed to confer to any employee any property interest in such employee's continued employment, unless such employee falls within a class of employees which has been granted such rights under the City's Personnel Policy and Procedures Manual. Any requirements or obligations imposed by this policy on third parties shall not confer any rights or benefits upon the employee or applicants unless otherwise conferred by law.

(R) Severable

The provisions of this policy are severable. If any part of this policy is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

18.3 CITY OF HUNTSVILLE'S DRUG AND ALCOHOL POLICY FOR ALL EMPLOYEES (excluding employees tested pursuant to the authority of the Federal Transit Administration and Federal Motor Carrier Safety Administration requirements set forth in Section 18.2)

The City of Huntsville acknowledges the problem of drug and alcohol abuse in our society. Furthermore, the City recognizes drug and alcohol abuse as a serious threat to its employees. Substance abuse in the workplace may result in poor work attendance or unsatisfactory job performance and may also create safety hazards for employees and the public at large. It is the intention of the City to implement a Drug and Alcohol Policy that will allow the City to effectively detect substance abuse by its employees. The City's goal is the following: (i) to assure that its employee's ability to perform his/her job is not adversely affected or impaired; (ii) to create a workplace environment free from the adverse effects of drug and alcohol abuse; and, (iii) to prohibit the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in the workplace. In an effort to meet these goals, the City is adopting this City of Huntsville Drug and Alcohol Policy. Employee participation in the City's Drug and Alcohol Policy is required and is a condition of employment.

The City's contact person for information about this City of Huntsville Drug and Alcohol Policy is Pamela M. Stephens. She may be reached by telephone at (256) 883-3726.

(A) Prohibited Behavior

(1) It shall be a violation of City policy for any employee to manufacture, distribute, sell, purchase, use, or possess alcohol, marijuana, cocaine, opiates, amphetamines, phencyclidine, non-prescribed controlled substances (including but not limited to anabolic steroids), or any unlawful substances while on duty or while in the workplace.

(2) It shall be a violation of City policy for any employee to report to work, be at work under the influence of, adversely affected by, or impaired by alcohol, marijuana, cocaine, opiates, amphetamines, phencyclidine, non-prescribed controlled substances (including but not limited to anabolic steroids), or any unlawful substances while on duty or while in the workplace.

(3) It shall be a violation of City policy for any employee to use prescription drugs unlawfully. It is not a violation of our policy for an employee to use lawfully prescribed medications, where those medications were lawfully prescribed for the individual employee. However, the employee shall notify his/her supervisor if the prescribed medication may affect the employee's ability to perform his/her job.

(4) It shall be a violation of City policy for an employee to report to or to be at work with prescribed or over-the-counter drugs in the blood or urine or taking prescribed or over-the-counter drugs where the use of such has adversely affected or impaired the employee's ability to perform the duties of his/her job or has posed a safety risk. Each employee shall advise

his/her supervisor in writing of the taking of a prescribed or over-the counter drug which may adversely affect or impair his/her ability to perform the duties of his/her job or which may create a safety risk. Failure of the employee to promptly notify his/her supervisor in writing of the taking of a prescribed or an over the counter drug which may adversely affect or impair the employee's ability to perform his/her job or which may create a safety risk is also considered to be a violation of City policy. An employee who takes a prescribed or over the counter drug which may impair or adversely affect the employee's ability to perform his/her job or which may create a safety risk may remain on his/her job, may be required to take sick leave or a leave of absence or may be subject to other appropriate action, such as temporary reassignment, as determined by his/her Department Head or Division Manager.

(5) It shall be a violation of City policy for an employee who is convicted of any violation of a criminal drug statute or alcohol statute to fail to notify his/her supervisor in writing within five (5) days after such conviction.

(6) It shall be a violation of City policy to alter, adulterate, or dilute or attempt to alter, adulterate, or dilute urine specimens. It shall also be a violation of City policy to substitute or attempt to substitute a urine specimen.

(7) It shall be a violation of City policy for any employee to report for duty or remain on duty while having an alcohol concentration of 0.02 or greater.

(8) It shall be a violation of City policy for any safety-sensitive employee, as hereinafter defined, to use alcohol within four (4) hours prior to performing safety-sensitive functions or while being "on-call" to perform safety-sensitive functions, to perform safety-sensitive functions within four (4) hours after using alcohol, or to use alcohol while performing safety-sensitive functions.

(9) It shall be a violation of City policy for an employee to refuse to take, consent to, or complete any drug or alcohol test as required by this Drug and Alcohol Policy. Refusal to take, consent to, or complete a drug or alcohol test means that the employee fails to provide an adequate urine sample for a drug test or an adequate breath sample for an alcohol test without a valid medical explanation after he or she had received notice of the requirement to be tested; or the employee engages in conduct that obstructs or avoids the testing process after receiving notice of the requirement to be tested. For the purpose of this policy and for disciplinary purposes, a violation of this rule shall be treated as though it were a positive drug or alcohol test result.

(10) It shall be a violation of City policy for a supervisor to allow an employee known to be in violation of these rules to perform or continue to perform safety-sensitive functions.

(11) It shall be a violation of City policy for an employee to violate or fail to comply with any provisions, terms, conditions, procedures, or requirements of this policy.

(B) Disciplinary Proceedings

A City employee in violation of this drug and alcohol policy shall be subject to one or more of the following as disciplinary actions:

(1) Suspension without pay for ten (10) days or more and successful completion of a SAP recommended education or Drug or Alcohol Treatment Program within eight (8) weeks of beginning the program. The City shall pay in accordance with the Group Health Plan under which the employee is covered;

(2) Demotion and successful completion of a SAP recommended education or a Drug or Alcohol Treatment Program within eight (8) weeks of beginning the program. The City shall pay in accordance with the Group Health Plan under which the employee is covered; or,

(3) Termination.

Failure of the employee to complete the SAP recommended education or Drug or Alcohol Treatment Program as referenced within this policy, or failure of the employee to complete additional requirements as recommended by the SAP, (e.g., additional treatment, aftercare or support group services), even after the employee returns to safety-sensitive duties shall be grounds for further disciplinary action up to and including termination.

The factors to be considered in determining the appropriate disciplinary response include, but are not limited to, the circumstances giving rise to the drug or alcohol test as required herein, the employee's work history, length of employment, current job performance, and the existence of past official disciplinary actions. An employee who is in violation of this Drug and Alcohol Policy a second time shall be terminated, if the violation is consistent with the Finding of Facts rendered by the Hearing Officer.

An employee, prior to receiving notice of the requirement to be tested, who voluntarily identifies himself or herself as a substance abuser, obtains counseling and rehabilitation through a qualified substance abuse treatment facility approved by the Health Center Resources and Program Manager or the Substance Abuse Professional (SAP), and thereafter refrains from violating this Section 18.3 is not subject to disciplinary action under this policy. However, this provision does not preclude the employee from disciplinary action related to misconduct otherwise in violation of the City's Personnel Policies and Procedures.

(C) Submission to Drug and Alcohol Testing

For the purpose of the City's Drug and Alcohol Policy, the policy and procedure for submission to drug and alcohol testing shall be as set forth in subsection 18.2(D) of the FTA/FMCSA Drug and Alcohol Policy.

(D) Testing Based on Reasonable Suspicion

A Department Head, Division Manager or his/her designated representative may request and authorize the drug or alcohol testing of any City employee where there is a "reasonable suspicion" that the employee has violated this drug and alcohol policy by the use of alcohol or prohibited drugs. The request for reasonable suspicion testing and determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable, observations concerning the appearance, behavior, speech, or body odors of the employee including, but not limited to, the following:

- (1) The presence of recognizable physical symptoms of drug or alcohol use, e.g., slurred speech, bloodshot eyes, alcohol on breath, inability to stand or to walk a straight line;
- (2) Indications of the chronic and withdrawal effects of controlled substances;
- (3) Direct knowledge or observation of drug or alcohol use or possession, or possession of drug paraphernalia; or,
- (4) Aberrant conduct or behavior that is so unusual that it warrants summoning a supervisor or other assistance.

The required observations must be made by a supervisor who has been trained in detecting the symptoms of drug use and alcohol misuse. The Department Head, Division Manager or his/her designated representative shall make a written determination of reasonable suspicion based on the observation as indicated above. The supervisor who makes the determination that reasonable suspicion exists shall not conduct the breath alcohol test on the employee.

Employees to be tested for "reasonable suspicion" shall be escorted to the testing site by a supervisor or the supervisor's designee as soon as possible so that the test may be administered within two (2) hours of the determination to test. Employees may still be tested if the test can be accomplished within eight (8) hours of the reasonable suspicion determination; however, if employees are not tested within eight (8) hours of the determination that reasonable suspicion exists for testing, then such event must be reported to the Health Center Resources and Program Manager and an investigation must be conducted to determine why the employee was not tested as required herein.

An employee who has a positive drug or alcohol test result or equivalent based on reasonable suspicion testing shall be subject to the same disciplinary proceedings, return to duty, and follow-up testing imposed upon safety-sensitive employees, including the Return to Duty Agreement.

(E) Testing for Safety-Sensitive Positions

In addition to the reasonable suspicion testing provided for all City employees in the foregoing paragraph, additional drug and alcohol testing is required by the City for employees performing safety-sensitive functions.

For the purposes of this policy set forth in this Section 18.3, the following types of functions or jobs are considered safety-sensitive: (i) a position requiring or having regular, direct access to a controlled substance; (ii) a position requiring having access to NCIC information; (iii) a position where the employee's action or inaction directly affects public safety; and, (iv) supervisors performing or directly supervising an employee performing those safety-sensitive functions listed in (i), (ii), and, (iii) herein.

A Department Head or Division Manager who believes that a job position has safety-sensitive functions shall identify each such position and submit it to the Health Center Resources and Program Manager who, in consultation with the City Attorney's Office and Human Resources Director shall review the request before certifying that a position is safety-sensitive. Human Resources shall maintain a list designating which job classifications/positions are considered to be safety-sensitive.

Employees in safety-sensitive positions as defined in this subsection 18.3(E) shall be notified that they are in such positions and that they are subject to pre-employment, post-accident, random, return to duty, follow-up, and reasonable suspicion testing.

Pre-employment, post-accident, random, return to duty, reasonable suspicion and follow-up drug and alcohol testing for employees in safety-sensitive jobs as defined above in this subsection 18.3(E) shall be in accordance with the procedures set forth in subsection 18.2(C) of the FTA/FMCSA Drug and Alcohol Policy except as modified herein.

(1) Pre-employment testing

Testing shall be in accordance with subsection 18.2 (C)(1).

(2) Post-accident testing

Mandatory drug and alcohol testing shall be required of all employees who are in safety-sensitive job classifications as defined in this subsection 18.3(E), after the occurrence of a workplace accident which results in personal injury to any person, damage to any property, or after the occurrence of any event or action which could reasonably be foreseen to cause an accident likely to result in personal injury to any person or damage to any property, unless the employee's performance can be discounted as a causative or contributing factor. Employees shall report for post-accident alcohol testing as soon as practicable following the accident, but not later than two (2) hours after the accident. Failure to report for post-accident testing within the two (2) hour post-accident period shall be deemed a refusal to submit to testing unless the employee was detained in order to seek emergency medical care, to obtain assistance in responding to the accident, or was physically unable to report due to injuries received in the accident. No post-accident alcohol testing shall be performed later than eight (8) hours after the accident.

Employees required to take a post-accident alcohol test shall not use alcohol for eight (8) hours following the accident, or until he or she undergoes a post-accident alcohol test, whichever occurs first.

Employees required to undergo post-accident drug tests shall report to the test facility in sufficient time for the test to be administered within thirty-two (32) hours of the accident. Failure to report for testing within the thirty-two (32) hour time frame subsequent to the accident shall be deemed a refusal to submit to testing unless the employee was detained in order to seek emergency medical care, to obtain assistance in responding to the accident, or was physically unable to report due to injuries received in the accident.

Nothing contained herein shall be construed to require the delay of necessary medical attention for injured people following an accident or to prohibit a covered 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.

(3) Random testing

Subject to the availability of funding, all safety-sensitive employees as defined in this subsection 18.3(E) above shall also be tested on a random basis. Random drug and alcohol testing shall be conducted in accordance with subsection 18.2(C)(4). Random testing pursuant to this subsection shall be based on a random testing pool separate from the random testing pools established for employees tested pursuant to subsection 18.2(C)(4).

(4) Return to duty testing

Return to duty testing shall be in accordance with subsection 18.2(C)(5).

(5) Follow-up testing

Follow-up testing shall be in accordance with subsection 18.2(C)(6).

Employees to be tested under the provisions for post-accident testing, random testing, return to duty testing, or follow-up testing should be escorted to the testing site by a supervisor or the supervisor's designee.

(6) Reasonable Suspicion

Reasonable Suspicion shall be in accordance with subsection 18.2(C)(2)

(F) Procedures for Alcohol Testing

Procedures for Alcohol Testing shall be in accordance with subsection 18.2(G).

(G) Procedures for Drug Testing

Procedures for Drug Testing shall be in accordance with subsection 18.2(H).

(H) Confidentiality of Test Results

Policies and procedures to be followed for confidentiality of test results shall be in accordance with subsection 18.2(J).

(I) Medical Review Officer

Policies and procedures for the Medical Review Officer shall be in accordance with subsection 18.2(I).

(J) Searches

When an employee's ability to perform his/her job leads to the request for a drug and alcohol test and results of the test(s) are positive, the City reserves the right to search, without the employee's consent, all areas and property in which the City maintains full control or joint control with the employee.

(K) Drug Awareness Education Program

The City will conduct a Drug Awareness Education Program for its employees which will inform employees about the dangers of drug and alcohol abuse, the indicators of drug and alcohol use, the City's policy of maintaining a drug-free workplace, and the availability of community drug and alcohol counseling and rehabilitation resources. Safety-sensitive employees will receive a policy statement regarding the City of Huntsville's drug and alcohol abuse policy and testing program and notification of the positions designated as safety-sensitive.

(L) Supervisor Training

Supervisory personnel will receive at least one hour of training in identifying drug use, and one (1) additional hour in identifying alcohol use among employees. Such training will be directed towards helping supervisors recognize the conduct and behavior that gives rise to a reasonable suspicion of drug or alcohol use.

(M) Health Center Resources and Program Manager Referral

Employees may be referred to an Health Center Resources and Program Manager or appropriate community resource for assessment, counseling, and rehabilitation.

(N) Interpretations

To the extent that any portion or provision of this policy conflicts with any applicable federal or state laws or regulations, such federal or state laws or regulations will be controlling.

This policy shall not be construed to confer to any employee any property interest in such employee's continued employment, unless such employee falls within a class of employees which has been granted such rights under the City's Personnel Policy and Procedures Manual. Any requirements or obligations imposed by this policy on third parties shall not confer any rights or benefits upon the employee or applicants unless otherwise conferred by law.

(O) Severable

The provisions of this City of Huntsville Drug and Alcohol Policy are severable. If any part of the City of Huntsville Drug and Alcohol Policy is declared invalid or unconstitutional, such declaration shall not affect the part which remains.

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 19

19 EMPLOYEE ASSISTANCE PROGRAM (ORD. 08-776) (ORD. 16-266)

19.1 GENERAL OVERVIEW

The City of Huntsville is interested in the health and well-being of all our employees and feels that it is in the interest of everyone to deal with personal problems which affect our employees' job performance through the use of an Employee Assistance Program (EAP). The purpose of the City of Huntsville's EAP is to provide confidential, professional assistance to any full-time employee or any spouse or dependent family member of a full-time employee who desires such assistance.

The types of personal problems that the EAP is designed to help address include, but are not limited to, marital or family distresses, financial problems, emotional problems, and alcohol and drug abuse. The EAP will attempt to treat such personal problems by directing the employee or his/her family member, who is listed as a covered dependent on the City's group health plan, to the appropriate facility – a family counseling facility, a financial assistance facility, a psychiatric assistance facility, or a drug or alcohol treatment facility. Covered charges for medical and professional treatment will be handled in accordance with the provisions of the City's group insurance plan in effect at the time of treatment.

There may be some cause outside the realm of job responsibilities which is the basic reason for the problem, when an employee's job performance deteriorates from expected standards and the employee is unable or unwilling to correct the situation either alone or with the assistance of his/her supervisor. Identification of unsatisfactory job performance will include such factors as documented absenteeism, tardiness, job related accidents, and generally lowered job efficiency which persists over a period of time, either constantly or intermittently. An employee exhibiting such symptoms may be referred to the Health Center Resources and Program Manager for an evaluation of the problem.

The Health Center Resources and Program Manager is the initial contact person for employees or their family members and supervisors seeking information about the EAP. The Health Center Resources and Program Manager arranges referrals to sources of assistance and the Health Center Resources and Program Manager functions as the City's contact for those sources. Once the referral has been completed and treatment is provided, the Health Center Resources and Program Manager may monitor the employee's continued participation and follow-up on such participation as appropriate.

An employee who has a problem which he/she feels may affect his/her job performance is encouraged to voluntarily seek information by contacting the Health Center Resources and Program Manager. Strict confidentiality of records and information will be maintained. Those receiving help will not have job security, promotion opportunities, or reputation jeopardized by participating

in the program. However, participation in an EAP will not alter or supersede existing procedures for correcting unsatisfactory performance, nor preclude disciplinary action where appropriate.

19.2 REFERRAL PROCEDURES

(A) Types of Referral

Employees may obtain professional assistance through the Employee Assistance Program in one of the following ways:

- (1) Self-Referral, including Family Referral;
- (2) Supervisor Referral;
- (3) Medical Referral; or,
- (4) Disciplinary Proceedings Referral.

(B) Referral Procedures

The following procedures are designed to facilitate each of these types of referral to the program:

(1) Self-referral, including family referral

(a) An employee, or a dependent family member, who desires confidential assistance for a personal problem should call the Health Center Resources and Program Manager;

(b) The Health Center Resources and Program Manager will either provide the necessary assistance on the telephone or will arrange to see the individual for further confidential consultation; and,

(c) All communications between the employee and the Health Center Resources and Program Manager will be held in strictest confidence, unless the employee requests in writing that City of Huntsville official or other parties be notified. The City of Huntsville will in no way require the reporting of names of self-referred employees or family members.

(2) Supervisor referral

(a) A supervisor may make a referral to the Health Center Resources and Program Manager when there is a deterioration in the employee's performance, which appears to be the result of a personal problem;

(b) If the supervisor determines that a problem is of a serious nature, he/she should call the Health Center Resources and Program Manager and discuss the on-the-job incidents or the pattern of declining performance. The supervisor should make available to the Health Center Resources and Program Manager all information the

Health Center Resources and Program Manager deems relevant to the matter;

(c) The supervisor should have a meeting with the employee to discuss the employee's declining performance and the possible supervisory action that may result if the performance does not improve; and,

(d) After the supervisor has discussed the recurrent performance problem with the employee, the supervisor should remind the employee of the EAP, advise him/her of the availability of confidential professional assistance for any work hampering personal problem, and strongly encourage the employee to allow the supervisor to obtain an appointment with the Health Center Resources and Program Manager. Though the final decision to use the program is the employee's, the supervisor should emphasize the importance of the EAP. Use of the EAP shall not be a condition for continuing employment.

(i) If the employee chooses not to accept assistance at this time, the supervisor should reinforce the City of Huntsville's expectation for satisfactory performance and the consequences of failure to perform satisfactorily. The supervisor should also mention that the EAP is available should the employee change his/her mind in the future; or,

(ii) If the employee chooses to accept assistance at this time, all information pertaining to the employee's referral to the EAP will be accorded the highest standards of confidentiality;

(3) Medical referral

(a) The basis of the referral should be either:

(i) The identification of a medical symptom or disorder which is commonly associated with a personal problem; or,

(ii) A request from the employee for advice or assistance regarding a personal problem;

(b) The health care provider will conduct an evaluation of the employee to discuss the medical symptoms or disorders which may indicate a personal problem. The employee will be advised of the EAP and, if appropriate, an appointment will be arranged;

(c) The health care provider will advise the employee that an appointment may be viewed as part of the prescribed treatment plan and the referral by the health care provider may become part of the employee's medical records. The freedom to decide whether or not to accept assistance through the EAP will remain with the employee; and,

(d) The employee will be advised that the same high standards of confidentiality accorded other medical information apply to referral to the

EAP. There will be no report made to the employee's supervisor without the employee's written permission;

(4) Disciplinary proceedings referral

The City's Drug and Alcohol Policies provides that an employee disciplined under the provisions of its policy may be subject to referral to a Substance Abuse Professional (SAP). An employee, who has been referred to a SAP as a result of a non-voluntary referral pursuant to the Drug and Alcohol Policies and who refuses to accept referral or fails to successfully complete the program within the time required, may be subjected to disciplinary action. The SAP is authorized to report the completion status of an employee to the Health Center Resources and Program Manager, who shall report the status to the employee's Department Head or Division Manager, or other designated representative. Thereafter, the official may proceed with discipline in accordance with Section 13 of these policies and procedures governing conduct and discipline.

19.3 PROBLEM ASSESSMENT/EVALUATION

The Health Center Resources and Program Manager will assist referred employees in the following manner:

(A) Explain the purpose and function of the EAP;

(B) Conduct an initial interview to assess the nature of the employee's problem. After assessing an employee's problem, the Health Center Resources and Program Manager may recommend specialized assistance. Charges for specialized assistance are the responsibility of the employee, but may be covered under the employee's insurance benefits;

(C) Consult with a Licensed Professional Counselor, a Certified Addiction Counselor, or other health care provider to determine the adequacy of various care agencies;

(D) Arrange referral for appropriate care consistent with the employee's needs. Success of care may vary depending upon factors outside the control of the City; therefore, the City makes no representations as to the results of any program; and,

(E) Follow-up, where appropriate, with the caregiver to determine how the employee is progressing.

To the extent necessary to perform his/her responsibilities, the Health Center Resources and Program Manager may request that an employee sign a consent to release information to the Health Center Resources and Program Manager or to any actual or potential caregiver in order to facilitate the treatment of the employee. The decision to sign the consent is at the sole discretion of the employee.

19.4 EDUCATION AND TRAINING

The Health Center Resources and Program Manager may educate and train the City of Huntsville employees and supervisors in the following ways:

(A) Communicating EAP Services--It is important that employees and their families are informed about the City of Huntsville's EAP and the services it offers. It is also important that employees and their families are continually updated by various education techniques on the EAP's existence and availability. Information about the EAP should be made available to all new employees and their families;

(B) Employee Education--The Health Center Resources and Program Manager should conduct a drug awareness education program for employees which will inform employees about the dangers of drug and alcohol abuse, the indicators of drug and alcohol use, and the City's policy of maintaining a drug-free workplace; and,

(C) Supervisory Training--Supervisory personnel should receive additional training in identifying a troubled employee. Such training will be directed towards helping supervisors recognize the conduct and behavior of a troubled employee.

19.5 CONFIDENTIALITY

Participation in the EAP is confidential. To ensure confidentiality, the following provisions shall apply:

(A) Information about an individual's participation shall not be released to anyone without the individual's written consent, unless subpoenaed by a duly authorized court of law;

(B) City employees and their family members who utilize the EAP services may be requested to anonymously complete an evaluation form. The evaluation form should be returned by mail and should include whether the services received and locations of services were satisfactory;

(C) Unless an employee has consented to the release of information, the Health Center Resources and Program Manager shall receive only summary information from the caregivers to enable the City to assess the usefulness of the program and, where necessary, to ascertain compliance with disciplinary action. Information provided to the Health Center Resources and Program Manager shall ordinarily, in the absence of the employee's consent, be limited to whether employees attend their appointments, whether employees are participating in the program, whether employees are following recommended advice, and the number of employees who have utilized the services provided by the caregiver; and,

(D) An employee or a counselor from the institution providing the care may find it desirable to share information with an employee's supervisor. Although a counselor may suggest such sharing of information, the final decision about providing information rests with the employee. An employee may share any

information he/she wishes at any time. A counselor from the caregiver, however, shall provide information only after receiving written consent from the employee and shall only provide information to the Health Center Resources and Program Manager; otherwise, no information regarding the nature of the employee's personal problem shall be shared with the Health Center Resources and Program Manager. It is the responsibility of the Health Center Resources and Program Manager to obtain the written consent of the employee if any information is to be provided to other City officials.

19.6 DISCIPLINARY ACTIONS

The EAP is not a substitute for the City's published disciplinary procedures. Neither special privileges nor exemptions from performance standards will be granted to an employee participating in the EAP. While an employee may be referred to the EAP as a result of a disciplinary action taken under the City's Drug and Alcohol Policies or the Conduct and Disciplinary Policy, responsibility for seeking treatment under the EAP is the employee's.

19.7 COSTS

There is no charge to an employee or his/her family members for using the services of the Health Center Resources and Program Manager. The Health Center Resources and Program Manager may sometimes refer the employee or his/her family members to free community services; however, there may be a fee for other professional services not covered under the employee's insurance benefits. The City is not responsible for the cost of professional services not covered under the employee's insurance benefits.

19.8 INQUIRIES

Questions about the EAP may be directed to the Health Center Resources and Program Manager. The Health Center Resources and Program Manager may be reached by contacting the City's Huntsville Health & Wellness Center. Employees seeking information regarding EAP services are not required to identify themselves other than to state that they are full-time employees of the City of Huntsville.

SECTION 20

SMOKING AND TOBACCO USE POLICY (ORD. 15-84)

20.1 PURPOSE

The purpose of this policy is to provide a healthful environment for each and every municipal employee, as well as for visitors to a municipal workplace. Furthermore, the City of Huntsville desires to comply with all applicable federal, state and local regulations regarding smoking and tobacco use in the workplace and to provide a work environment that promotes productivity and the well-being of its employees.

20.2 POLICY

(A) Smoking or the use of any tobacco product is prohibited in all buildings and facilities owned, operated, or controlled by the City of Huntsville or an agency of the City of Huntsville.

(B) Smoking or the use of any tobacco product is prohibited in all vehicles owned or operated by the City of Huntsville.

20.3 DEFINITIONS

(A) Tobacco Use: Tobacco Use shall mean and include the lighting, holding, carrying of, inhaling and exhaling of the smoke, vapor or other byproduct of a Tobacco Product, which includes but is not limited to the carrying or holding of a lighted or otherwise activated pipe, cigar, cigarette, electronic nicotine delivery systems (ENDS), electronic cigarettes, or any other lighted smoking equipment or device. Tobacco Use shall also mean the oral use of any type of Tobacco Product.

(B) Tobacco Product: The product made or derived from tobacco that is intended for human consumption, including any component, part or accessory of a Tobacco Product. Tobacco Product includes but is not limited to cigarettes, cigars, pipes, water pipes (hookah), bidis, kreteks, electronic nicotine delivery systems (ENDS), electronic cigarettes, certain dissolvables, gels, smokeless tobacco, snuff, and chewing tobacco.

20.4 RESPONSIBILITY OF EMPLOYEES

The success of this policy depends upon the thoughtfulness, consideration, and cooperation of all employees. All employees share in the responsibility for adhering to and enforcing the policy. Any conflicts should be brought to the attention of the appropriate supervisory personnel and, if necessary, referred to the Department Head and/or Human Resources for a final decision within the guidelines of this policy.

20.5 DISCIPLINE

Any employee who willfully fails, or refuses, to follow this policy shall be subject to disciplinary action in accordance with Section 13 of the Personnel Policies and Procedures of the City of Huntsville.

20.6 ASSISTANCE FOR TOBACCO USERS

Employees may contact the City of Huntsville Health & Wellness Center and/or the Human Resources Department for more information regarding the effects of tobacco use and the availability of tobacco cessation programs.

20.7 RETALIATION PROHIBITED

No employee of the City of Huntsville shall harass or otherwise discriminate or retaliate against any other City employee who seeks to enforce the terms of this policy.

SECTION 21
(RESERVED)

(THIS PAGE INTENTIONALLY LEFT BLANK)

SECTION 22

MISCELLANEOUS POLICIES

22.1 OUTSIDE EMPLOYMENT (INCLUDING SELF-EMPLOYMENT)

Upon written request and subsequent written approval of the Department Head, an employee may engage in outside employment, including self-employment. However, no employee may engage in additional employment that interferes with proper and effective job performance, results in a conflict of interest, or may subject the City or any of its departments to public criticism or embarrassment. If the Department Head determines that such outside employment is disadvantageous to the department or the City, the Department Head shall so notify the employee in writing that the employee's request has been denied or original approval by the Department Head withdrawn, and the reason for such denial.

Initial approval of outside employment by the Department Head is valid for the remainder of the calendar year in which the approval was granted. During November of each year, or such other date as approved by the Director of Human Resources, each employee previously approved for working outside employment shall file in writing with the Department Head a request for renewal of approval to engage in outside employment. Such approval, when granted, shall be valid for the upcoming calendar year, unless the approval is withdrawn for the outside employment due to the outside employment resulting in a violation of, or it being contradictory to, the policies outlined within this policy.

Requests for approval of outside employment shall be made on a form approved by Human Resources. Such form shall include, but not necessarily be limited to, the outside employer's name, full address including street and P.O. Box, telephone number, facsimile number, name of contact person, description of the nature of the work to be performed, scheduled hours to be worked per week, identification of any potential conflict of interest with the employee's City job functions, a certification by the employee that the information furnished by the employee on the form is true to the best of the employee's knowledge, and a place for the employee's signature and date, a place for the Department Head to indicate written approval of the request and date, and a section for comments or restrictions to be made by the Department Head.

The Department Head shall respond to the employee's request within thirty (30) calendar days. Failure of the Department Head to respond within the thirty (30) calendar day period may serve as grounds to file a grievance. A copy of the employee's request and the approval or disapproval shall be maintained on file by the Department Head and the original shall be forwarded to the Director of Human Resources for inclusion in the employee's personnel file.

Employees who engage in employment outside of regular working hours shall be subject to call to perform work for the City of Huntsville as first priority. Employees shall not be authorized to engage in outside employment during any calendar day within which the employee is utilizing sick leave (except as provided in Section 10.7) or receiving workers' compensation benefits.

No employee shall actively pursue business or other employment efforts, other than his/her regular duties for the City of Huntsville, during assigned work hours for the City.

An employee's approved outside employment is contingent upon that employee's retention in an active capacity in good standing in his/her City employment, and should such employee, as a result of a disciplinary action, be suspended from official duties; then, that employee shall lose the right and privilege of outside employment only for the length of time of the suspension, unless the disciplinary action results from a violation of the City's outside employment policies. In addition, in the case of sworn law enforcement personnel, when an employee is relieved of his/her law enforcement powers, then any approval to engage in extra-duty employment is withdrawn.

22.2 PROCEDURES AND STANDARDS RELATING TO CITY-OWNED INFORMATION TECHNOLOGY EQUIPMENT

This policy establishes the procedures and standards for the use of City owned information technology equipment, grant purchased equipment, or donated equipment (hereafter referred to collectively as "IT equipment"), which includes, but is not limited to, City owned and leased telephones or cell phones, radios, facsimile machines, voice mail, computers, electronic mail (e-mail), and Internet functions. City IT resources are made available to employees to assist in the pursuit of organizational goals. It is expected that users will cooperate with each other in order to promote the most effective use of IT resources and will respect each other's ownership of work even though it is in electronic rather than printed form. All IT resources users are responsible for knowing and abiding by the City's policy. Failure to abide by this policy may result in elimination of communications resources privileges and/or disciplinary action up to and including termination.

(A) Information Technology General Guidelines

(1) Standards of conduct -- The general standards of conduct expected of a City employee or official also apply to the use of City IT resources. The resources include hardware, software, and data. Individuals and organizations will be held no less accountable for their actions involving IT than they would be in other situations. Examples of conduct which violates the City's property rights with respect to these resources include:

(a) Copying City-owned or licensed software or data to another computer system without proper authorization from the Information Technology Department;

(b) Attempting to modify City-owned or licensed software or data files without proper authorization from the Information Technology Department;

(c) Attempting to damage or disrupt operation of IT communications lines;

(d) Attempting to intentionally access or modify data files, databases, directories, or software without proper authorization from the Information Technology Department;

- (e) Attempting to circumvent or subvert system or network security measures;
- (f) Attempting to intentionally access or modify the configurations of the personal computers or network;
- (g) Intercepting network traffic for any purpose unless engaged in authorized network administrative duties;
- (h) Allowing access to computer resources by unauthorized persons; and,
- (i) Using City resources for any activity not directly arising from duties performed for the City or for personal gain unrelated to employment with the City.

(2) Confidentiality -- Use of any of the City's communication resources serves as consent to monitoring and such resources should be used with the understanding that such use in general is not secure, not anonymous, and should not indicate any expectation of privacy for the employee. The City of Huntsville cannot guarantee the privacy or confidentiality of any e-mail message, Internet usage, facsimile usage, or any telephone usage. No electronic communication should contain confidential information.

The City, however, seeks to protect any privacy rights a user may have and seeks to protect the confidentiality of City records stored on its computer systems from unauthorized access. It is a violation for any user (with no substantial business purpose for obtaining access to the files or communications of others), including the system administrator, security administrator, and supervisors, to access any e-mail system for purposes of satisfying idle curiosity about the affairs of others.

Anyone found to have engaged in illegal, unauthorized, or unethical practices or deliberate attempts to degrade or disrupt systems performance will be subject to disciplinary action which could result in termination of system access, termination of employment, or other disciplinary action, and/or criminal prosecution, as appropriate.

Conduct which involves use of City computer resources to violate another's rights includes, but is not limited to:

- (a) Invading the privacy of an individual by using electronic means to ascertain confidential information;
- (b) Copying or altering another user's software or data which has been obtained by illegal means;
- (c) Knowingly accepting or using software or data which has been obtained by illegal means;
- (d) Abusing or harassing another user through electronic means; or,
- (e) Using City computer facilities for illegal, immoral, or otherwise inappropriate purposes. Examples of this include, but are not limited

to: distribution of unsolicited advertising and intentional propagation of computer "worms" and viruses.

(3) Computer identity -- The City's computer systems require that each user have a unique identity referred to as a "User-ID", protected by a "Password", to gain access. Conduct which involves misuse of computer identities includes:

(a) Allowing an unauthorized individual to use the identity; and,

(b) Using another individual's computer identity without the express permission of the authorized user or the express permission of the Department Head or Division Manager of the authorized user.

(4) Security and data integrity --With the increasing numbers of notebook computers, high capacity disk storage devices, and remote access to the City's WAN/Intranet, the opportunity for data theft or corruption has increased significantly. To protect the integrity of City-owned data, each user must take precautions to ensure that:

(a) All equipment is located in a secure area where the opportunities for theft or damage are minimized;

(b) Only authorized personnel have access to the computer system; and,

(c) Confidential files must be secured from unauthorized access.

(5) Hardware and software requirements -- The following requirements are applicable to all City employees:

(a) No personal or non-business related software, including games, shall be placed on City hardware;

(b) No hardware or software shall be purchased or donated and placed in service without review and approval of the Information Technology Department;

(c) Software is licensed to a specific computer and cannot be copied and loaded onto other systems. To copy licensed software for another system is a violation of federal law and carries stiff penalties. No software shall be illegally copied in such a manner; and,

(d) Requests for upgrades, replacements or additions to systems should include a memo explaining the need and/or use for the request from a Department Head.

(6) Termination of City employment -- Upon completion of employment with the City, the departing user's supervisor may request a review or deletion of the contents of the user's mailbox. The employee's supervisor is responsible for notifying the Information Technology Department of employee termination for individuals who have been granted computer access.

(7) Violations -- Conduct that violates the City's property rights, the proper use of City IT resources, or computer identities is grounds for disciplinary action up to and including termination.

(B) City of Huntsville Property

All IT equipment including, but not limited to, e-mail (both internal and via the Internet) messages are the property of the City of Huntsville. Any use of the City's Internet access or e-mail services shall be considered and treated as any other work product subject to periodic or specific review and approval of the employee's immediate supervisor. Department Heads shall designate which employees may use e-mail. The City reserves the right to terminate or suspend an employee's access to the e-mail system at any time should sufficient cause exist. Routine backup of electronic mail will occur as part of the system maintenance performed by the Information Technology Department. The City will abide by the law and reserves the right to access, monitor, review, copy, or delete e-mail messages, voice mail messages, Internet usage, or other computer usage whenever there is a legitimate purpose to do so and under the following circumstances:

- (1) When required by City of Huntsville policies, procedures, and standards;
- (2) When an employee terminates employment with the City, the employee's mail may be accessed. The files may be transferred to other users, if necessary to conduct City business;
- (3) When required by law;
- (4) When an investigation is triggered by allegations or other indications of impropriety, misconduct, or as necessary to locate substantive information;
- (5) When necessary to investigate a possible violation of a City policy or a breach of the security of the electronic mail system;
- (6) When there is reasonable suspicion that a user has committed or is committing a crime; or,
- (7) For any other business or job-related purpose as determined necessary by the employee's Department Head or the Mayor.

The contents of telephone, voice mail, computer(s), electronic mail, or Internet usage, properly obtained for legitimate business purposes, may be disclosed within the organization without the permission of the user. However, any internal disclosure without the consent of the employee who sent the message shall be limited to those employees who have need for access to the information.

The City will disclose any electronic mail, voice mail message, or other communications information or data to law enforcement officials if legally required, or considered to be in the best interest of the City, as determined by the Mayor or appropriate Department Head. The City will give notice of such disclosure to users who have sent or received such messages, unless there is

reason to believe the City has been the target of a crime or if the City has a legal obligation not to do so.

Departments must coordinate all requests to post information on the City of Huntsville's Internet and Intranet sites with the Information Technology Department prior to entering it on the Internet or the Intranet. No department may create or contract for its own physical web site without the approval of the Information Technology Department.

(C) Personal Use of IT Equipment

IT equipment functions are first and foremost business tools of the City and are not intended for personal or unauthorized use; however, limited personal use may be permitted. Permitted limited personal use consists of those communications that are most reasonably made from the employee's normal work place, such as checking in with a spouse or dependents, and making medical, home or automobile repair, and similar appointments. In order to ensure that such personal use does not adversely affect the performance of official duties and serves a legitimate public interest, this permitted use is subject to the following:

- (1) Whenever possible, personal use should be before or after work hours, during lunch, or during other authorized breaks from work;
- (2) Communications should be infrequent and short;
- (3) Personal use may not result in the incurrence of any long distance toll call or other usage fees chargeable to the City;
- (4) Personal communications to solicit business, advertise, or engage in other selling activities in support of private business enterprises; fundraising activities for other organizations or individuals; or, any other use that would reflect adversely on the City or is incompatible with law, policy, or public service is prohibited;
- (5) Permitted limited personal use of computers includes permission to use Internet resources for professional development purposes consistent with ensuring that the primary duties of the employee are accomplished; and,
- (6) In the event of any personal use by an employee which is inconsistent with this policy or which otherwise interferes with the employee's job performance or the accomplishment of the City's business, the employee's supervisor may restrict the employee from using the communications resources in whole or in part.

(D) Prohibited Use

Prohibited use of all City's IT equipment includes, but is not limited to, the following:

- (1) Use of the system for purely personal gain (excluding City-endorsed retirement and/or pension systems);

- (2) Use of the system to send chain letters;
- (3) Use of the system to send or receive copyrighted material, trade secrets, proprietary financial records information, or similar materials without authorization;
- (4) Use of the system to conduct non-City activities, including operating of a private business, conducting job searches, promoting religious beliefs, or forwarding political advertisements;
- (5) Sending, downloading, storing, displaying, accessing, printing, or transmitting sexually explicit images, messages, or cartoons;
- (6) Sending messages containing offensive, abusive, threatening, or similar kinds of language; or,
- (7) Sending, downloading, storing, displaying, accessing, printing, or transmitting messages that contain ethnic, racial, sexual, or religious slurs or epithets, or anything that may be construed as a threat, harassment, or disparagement of others.

22.3 EMPLOYEE INCENTIVE AWARDS PROGRAM

An Outstanding Performance Award program is established for the purposes of promoting an overall standard of excellence and acknowledging outstanding employee achievements. Individual merit employees or groups of merit employees who distinguish themselves through outstanding job performance, extraordinary effort in providing superior public service, and attainment of the goals and objectives of the City of Huntsville are eligible for recognition under this program.

The value of an Outstanding Performance Award shall be determined by the Nominating Committee, using factors set forth in the final paragraph of this section, and approved by the City Council. However, no Outstanding Performance Award shall exceed \$1,000.00. The number and/or total annual expenditure for Outstanding Performance Awards made under this program will be determined by the Administration. Awards will be made on a quarterly basis.

- (A) In order to be eligible for an Outstanding Performance Award, a regular, full-time or regular, part-time employee must have received an above-average performance evaluation from his/her Department Head, Division Manager, or supervisor during the preceding twelve (12) months.
- (B) A nominated employee should demonstrate all of the following characteristics:
 - (1) An overall spirit of cooperation in working to achieve established goals and objectives of the City of Huntsville;
 - (2) An overall spirit of cooperation in working with fellow employees and the general public;

(3) A positive attitude and a consistent pattern of excellence in both regularly assigned and specially assigned tasks and duties;

(4) Professional conduct in judgment and job performance; and,

(5) Compliance with all City of Huntsville policies, procedures, regulations, and ordinances.

(C) A nominated employee should demonstrate one or more of the following characteristics or accomplishments which, singularly or collectively, have resulted in significantly reduced costs or outstanding improvement of public services:

(1) Development of an innovative or unique approach to a problem or assignment;

(2) Personal initiative and leadership;

(3) Completion of a project outside the individual's usual nature of work;

(4) Submission of an innovative idea or method that greatly increases administrative or operational efficiency or productivity of a work group or department; or,

(5) Particular actions which have eliminated waste or otherwise conserved taxpayer dollars.

Each Department Head is responsible for submitting the names of employees from his/her department for nomination. There is no limit on the number of individuals that can be submitted from each department so long as each individual meets eligibility criteria.

All submissions shall be made on designated City of Huntsville Outstanding Performance Awards Submission Forms available in the Human Resources Department. All awards will be made solely on the basis of information provided on the Outstanding Performance Awards Submission Forms. Quarterly submissions by Department Heads must be received by Human Resources no later than 5:00 p.m. on November 1, February 1, May 1, and August 1. Each deadline applies with respect to awards to be made for the immediately preceding fiscal quarter. No submission will be accepted for a quarterly award after its respective deadline.

The Mayor will appoint a Nominating Committee. The Committee will consist of three individuals who are not City employees. The Committee will review the submissions to determine whether program criteria have been satisfied and the extent to which the employee's performance has resulted in significantly reduced costs or improved public services. The propriety and amount of an Outstanding Performance Award will be determined by the Nominating Committee on the basis of its evaluation of the foregoing factors and will reflect the nature and extent of savings or improved services generated by the employee's performance. No employee can receive an Outstanding Performance Award unless his/her submission receives a nomination from the Committee. The Nominating Committee will submit its nominations (including the employee's Outstanding Performance Awards Submission Form and the

Committee's recommendation regarding the amount of the award) to the City Council for approval. No Outstanding Performance Award will be made in the absence of City Council approval.

22.4 USE OF CITY VEHICLES

(A) The Mayor or Department Head shall have the authority to assign and designate the use of a City vehicle, within provisions of applicable ordinances, to an employee for the purpose of conducting official City business.

(B) City vehicles may be operated only by employees of the City on City business.

(C) City vehicles shall not be used to transport persons other than City employees, except in connection with the effective execution of official duties for the City of Huntsville. A non-employee shall be permitted to accompany an employee who is on out-of-town City business, if such person signs a release of the City and its agents prior to such trip.

(D) City employees who may be required to perform duties before or after normal working hours may be authorized to carry a vehicle home on those nights when he/she is performing such duties. These employees must deliver prior authorization from or through their immediate supervisor to the appropriate motor pool administrator. If an employee is called out unexpectedly he/she will be expected to use his/her personal vehicle and will be reimbursed at per mile rate equal to the rate currently recognized by the United States Internal Revenue Service. All requests for mileage payments shall be made on a "City of Huntsville Local Mileage Report".

(E) Any employee authorized to use a motor pool vehicle shall be responsible for properly logging the vehicle in and out at the motor pool office as well as entering the required trip information into the vehicle log contained in the vehicle for each trip.

(F) When an employee regularly uses a City owned vehicle for travel to and from his/her home, a log shall be kept by that employee recording the date, time, purpose, and number of miles traveled in connection with all use of said automobile at any time other than during regular working hours. This provision shall not apply to the Mayor.

22.5 LOSS OF DRIVING PRIVILEGE

An employee of the City required to drive a City vehicle shall not drive such without a current and valid driver's license or, otherwise, without the privilege to drive in the State of Alabama.

In the event an employee's driver's license or driving privilege is canceled, suspended, or revoked, or an employee is otherwise prohibited from driving a motor vehicle by a court of competent jurisdiction or by the Alabama Department of Public Safety, the employee must promptly notify his/her Department Head, Division Manager, or immediate supervisor; and, the employee shall refrain from any further driving of a City vehicle. Any employee found driving a City vehicle without being in possession of a current and valid license shall be subject to termination.

If an employee's driver's license or privilege to drive is canceled, suspended, or revoked, or an employee is otherwise prohibited from driving a motor vehicle by a court of competent jurisdiction or the Alabama Department of Public Safety and if the Department Head determines that the employee's job requires driving a City vehicle or that a driver's license is a minimum requirement for the job, the affected employee may be subject to reassignment, demotion, suspension without pay, or termination. However, in the event a regular, full-time employee's driving privilege is canceled, suspended, revoked, or such employee is otherwise prohibited from driving a motor vehicle by a court of competent jurisdiction or the Alabama Department of Public Safety, resulting as a first offense and such employee is in good standing, having no other previous discipline or employment deficiencies, the employee, if suspended without pay, shall be authorized to use accumulated leave, excluding sick leave, during such suspension.

22.6 USE OF PERSONAL VEHICLE

In the event an employee is required to use a personal vehicle to conduct official City business, such employee shall be entitled to receive reimbursement at the per mile rate equal to the rate currently recognized by the United States Internal Revenue Service. All requests for mileage payments shall be made on a "City of Huntsville Local Mileage Report".

22.7 CLOTHING ALLOWANCE

City employees are expected to wear clothing that complies with the dress code of their department as established by their Department Head; and, except as provided in this subsection, City employees may not receive reimbursement or allowances to meet this requirement.

Some employees of the City, because of their unique work requirements, may be required to wear special articles of clothing ("uniform"). A uniform is intended for employees (1) who require personal protection from workplace hazards, (2) whose working conditions subject their clothing to excessive wear and tear, and (3) whose daily responsibilities require obvious personal identification as a City employee with the public. A uniform is not intended for employees who work primarily in an office setting, who do not require clothing substantially different from other City employees, and who can satisfy periodic City employee identity needs by some other reasonable means.

The Department Head of each department is responsible for establishing his/her department's uniform policy consistent with this subsection. The policy must identify the classifications required to wear a uniform, what clothing is required, and the annual dollar limitation the City will expend for each affected employee. The annual dollar limitation cannot exceed the amount approved for a department in the City's annual budget ordinance and is subject to the availability of budgeted funds.

The City will purchase uniform items for an employee required to wear a uniform in accordance with the applicable departmental policy and state and federal law. If the City is unable to purchase a required uniform, the Finance Department is authorized to provide an employee a uniform allowance. The allowance will be provided in accordance with the applicable departmental policy and any state or federal law requirements.

22.8 STATE ETHICS REQUIREMENTS

All employees required to file a "Statement of Economic Interests" form in accordance with Section 36-25-14, Code of Alabama (1975), as amended, must comply with all requirements specified on the form. Employees are required to be familiar with and to abide by the state ethics laws applicable to municipal employees.

22.9 PRIVILEGED, CONFIDENTIAL, PROPRIETARY, OR OTHERWISE RESTRICTED INFORMATION

Employees may deal with certain information of importance to the City, to other employees, to businesses dealing with or governed by the City, or to members of the public. Such information may be of a privileged, confidential or proprietary nature, or may be otherwise restricted. Employees shall not disclose such information without appropriate coordination with and approval by the Department Head and the City Attorney's Office. Employees shall not use such information for their own advantage, provide friends or acquaintances with such information, or otherwise inappropriately disclose such information to others. Each employee is charged with the responsibility of ensuring that information released or made available to others is to promote orderly and efficient business operations and has been appropriately approved for release.

Violation of this policy shall be considered just cause for disciplinary action.

22.10 WORKPLACE SEARCHES

As a condition of employment, City employees grant to management and supervisory personnel the right and authority to conduct unannounced searches or inspections of employee offices, desks, lockers, file cabinets, computers and other items, equipment, vehicles, and spaces furnished by the City to the employee (and the contents of any of the foregoing), whether unlocked or locked with a City provided or employee-provided lock. These searches or inspections may occur for work-related purposes, including, without limitation, prompt, efficient and orderly performance of City business and services; health and safety in the workplace; compliance with all federal, state and local laws, ordinances, rules, regulations, policies and procedures; and, in addition, for the purpose of investigating work-related misconduct.

Employees should leave at home personal possessions they do not wish to be seen. Employees should not have any expectation of privacy with regard to their possessions brought into and stored in the workplace. Employees who choose to keep personal possessions in the workplace do so with an understanding that these items are subject to search and inspection, as provided in this section, and that the risk of any loss will be the employee's responsibility. The provisions of this section shall also apply to inspection of articles or packages entering or leaving City property, as deemed necessary by management.

Workplace searches that clearly include an employee's personal property and are not part of the typical routine review or inspection of the workplace shall include at least two supervisory personnel for the search or shall be approved in advance in writing by the Mayor or the Mayor's designee.

Disciplinary action in accordance with Section 13 of this policies and procedures may result from searches and inspections or from failure to comply with this policy.

22.11 WORK RELEASE

If an employee is sentenced to a period of incarceration as a result of conviction of a crime in any court of competent jurisdiction and is ordered by such court, or makes application, to serve such period of incarceration on a work release program administered by the City of Huntsville or Madison County, the employee shall be entitled to serve such sentence on work release.

Nothing in this section shall be construed as preventing a Department Head or the Mayor from proceeding with disciplinary action, up to and including termination, against an employee who is convicted of a crime in accordance with the provisions of Section 13.

22.12 POLITICAL ACTIVITY

These rules and regulations are in no way intended to restrict or discourage the exercise by the employees of the City of Huntsville of their rights as citizens to privately express their own opinions, or their rights and duties as responsible citizens to cast their vote and take an active part in all elections. The City encourages all of its employees to exercise their democratic rights and responsibilities and to vote in all elections, federal, state, and local, subject to certain reasonable standards of professional conduct.

To ensure the integrity and independence of the operation of the City service, the following rules and regulations are promulgated:

(A) No person shall be appointed, promoted, demoted, or dismissed or in any way favored or discriminated against with respect to employment with the City of Huntsville for political reasons;

(B) No person employed by the City of Huntsville shall become a candidate for nomination or election to any public office unless:

(1) He/she maintains a satisfactory level of job performance at all times during the candidacy; and,

(2) He/she utilizes accumulated annual leave, holiday leave, or compensatory leave during his/her candidacy, in accordance with the other provisions of this handbook applicable to such leave; or,

(3) He/she requests and receives a leave of absence without pay from his/her position during the candidacy.

(C) A City employee, whether on paid or unpaid status, shall not:

(1) Conduct politically oriented speeches or other such verbal activities of a political nature, seek signatures to any petition, solicit votes, make or solicit contributions, or distribute badges, buttons, pamphlets, stickers, dodgers, or handbills of any kind favoring or opposing any issue for vote or referendum or candidate for election or nomination to public office upon

the property of or during the normal workday of the City of Huntsville. This prohibition includes the "lunch hour" and "break periods" if taken on City property;

(2) Use the property, facilities, or funds of the City of Huntsville in any way to create, promote, or distribute politically related materials;

(3) Use or promise to use, directly or indirectly, any official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;

(4) Directly or indirectly coerce, attempt to coerce, command, or advise an officer or employee to pay, lend, or contribute anything of value to a political party, committee, organization, agency, or person for a political purpose; or,

(5) Willfully or recklessly cause a violation of these rules and regulations through culpable negligence. Such violations shall be sufficient grounds for termination.

(D) A City employee shall be deemed a "candidate for nomination or election" if he/she has:

(1) Taken the necessary steps under state law for nomination or election to any state or local office as referenced in Section 17-22A-2(1)(a), Code of Alabama (1975), as amended;

(2) Received contributions, made expenditures, or given his/her consent for any other person or persons to receive contributions or make expenditures, with a view to bringing about his/her nomination or election to any state office or local offices. The terms "contribution" and "expenditure" shall have the definitions set forth in Section 17-22A-2, Code of Alabama (1975), as amended; or,

(3) Made a public announcement of candidacy for nomination or election to any public office.

(E) Any employee who is elected or appointed to a City office shall resign his/her position on or before the date that it is officially declared or known that he/she has been elected or appointed to City office;

(F) An employee who is elected or appointed to a public office other than a City office shall resign his/her position on or before the date that it is officially declared or known that he/she has been elected or appointed to that public office unless:

(1) He/she maintains a satisfactory level of job performance at all times during his/her service in public office; and,

(2) He/she refrains from conducting any activity related to the duties of his/her public office upon the property of the City of Huntsville during the normal workday or during his/her work hours.

(G) A City employee may not be denied the use of any accumulated leave, holiday leave, or compensatory leave when used in connection with his/her public office other than a City office, provided such leave is used in accordance with the other provisions of this handbook applicable to such leave;

(H) No officer or employee of the City of Huntsville shall act in the capacity of election officer, returning officer, marker, or watcher, or as a deputy sheriff in conducting any town or city election. An employee may act in the capacity of election officer, returning officer, marker, or watcher, or as a deputy sheriff in conducting any county or state election; and,

(I) Nothing in these rules shall be construed to prevent any employee from expressing political opinions, endorsing candidates, contributing to election campaigns, becoming or continuing to be a member of a political club or organization, attending a political meeting, or from enjoying all freedom in casting his/her vote.

22.13 LONGEVITY BANQUET

As an additional benefit to all eligible employees, there shall be scheduled in December of each year a longevity banquet for all regular, full-time employees who, between January 1 and December 31 of the year in which such banquet is scheduled, have been employed by the City for exactly 25, 30, 35, or 40 years.

The longevity banquet shall include dinner and a plaque of nominal value that may be presented to each such eligible employee.

22.14 CONFERENCE AND TRAVEL (ORD. 09-292) (ORD. 14-525) (15-531)

(A) Purpose

This policy establishes a standard procedure for reimbursing officials and employees of the City of Huntsville for travel expenses incurred while attending conferences, conventions, or training programs, or while undertaking other travel deemed to have a municipal purpose. This policy does not apply to local travel within Madison County.

(B) Number of Participants

The following should be considered in making a determination as to how many or who should travel on behalf of the City:

- (1) Direct operational benefit to the Department and/or the City;
- (2) Employees holding office in the professional organization;
- (3) Cost and proximity of convention site to Huntsville; and,
- (4) The overall participation level that best serves the City's interest.

Multiple representation at a single event should normally be discouraged.

(C) Travel and/or Training Request

(1) Administrative Approval. Prior approval for travel and/or training involving City business is required, as follows: for employees, by their Department Head; for Department Heads, by their immediate supervisor; and for the Mayor, by the City Administrator.

(2) Finance Department Approval. The following travel and/or training requires advance approval of the Finance Department:

(a) A travel and/or training event occurring on a single day if prepayment of any expenses by City check is required.

Payment of single-day event expenses by City credit card in advance of the event does not required advance approval.

(b) Any travel and/or training event that occurs over more than a single day.

The request shall be on the prescribed form, and should be submitted to the Finance Department, allowing at least five (5) workdays for processing, with accompanying evidence of expense.

(3) City Council Approval. Travel and/or training will require advance approval of the City Council if prepayment of any travel expenses by City check is required.

Advance approval by the City Council is not required for the prepayment of non-travel expenses by City check or for the prepayment of any expenses by City credit card.

(4) Failure to obtain prior approval of a request before expenses are incurred is cause for disallowing reimbursement.

(5) A single travel request may authorize more than one employee and prepaid items may cover more than one employee. However, a separate expense report must be submitted for each employee for reimbursement.

The Finance Department will administer the prepayment of travel and/or training expenses subject to the approvals required in this policy, and will prescribe the request forms consistent with this policy.

(D) Expense Report and Reimbursement

(1) Expense

Within seven (7) workdays after returning from a trip, a travel expense report must be completed, signed by the employee and Department Head, and submitted to the Finance Department. Departments Heads' expense reports must be approved by their immediate supervisor, and the City Administrator will approve Mayor's expense reports.

No one is to approve expense reports for their own reimbursement.

Exceptions to this seven (7) day policy will be made if an employee's approved leave is in conjunction with the travel. In this case, the expense report must be submitted within five (5) workdays of the return to work.

Expense report reimbursements are to be submitted for final approval at the next regularly scheduled meeting of the City Council, by way of the City Council's approval of disbursements.

(2) Reimbursement criteria

The following criteria are the basis for determining whether a specified travel expense is eligible for reimbursement:

(a) Transportation. The best interest of the City is the consideration when selecting the method of travel; however, the employee is expected to arrange comfortable and convenient transportation commensurate with the length of travel. If more than one employee attends the same event, transportation expenses are limited to the amount necessary to transport employees in groups, as determined by the Mayor's Office or the Finance Department. Employees must explain required changes made after approval in the comment section of the expense report.

(i) Air-coach fair by the route best suited for the interest of the City is allowed. Should employees select a different route for their own benefit, reimbursement is limited to coach fare by the route best suited for the interest of the City. Reimbursement of first class airfare is made only under unusual conditions or when coach accommodations are not available.

(ii) City-owned vehicles. Employees may use a department assigned vehicle or another City-owned vehicle, if available. Receipts for gasoline and parking are required.

(iii) Private vehicles. Use of a private vehicle for travel on City business is reimbursed at a rate established by the Mayor, which cannot exceed the IRS mileage rate. In no way should this exceed the cost of round-trip coach airfare or rental vehicle plus fuel costs, as determined by the Mayor's Office or the Finance Department.

If more than one (1) employee shares a personal vehicle on a trip, only one person will receive reimbursement for mileage.

(iv) Rental vehicles. If a city-owned vehicle is not available for use, rental vehicles may be procured if less costly to the City than the use of a private vehicle. Practically, this may limit the amount of reimbursement for use of private vehicles on longer trips.

(v) Taxi, shuttle, airport limo, etc. For each non-driving trip, no receipts are required for taxi, shuttle, airport limo, etc., up to and

including \$25.00. Requests for reimbursement over \$25.00 will require receipts.

(b) Lodging.

Reimbursement is authorized for lodging for single occupancy or occupancy shared with another City employee when practical. Lodging is reimbursed on an actual cost basis and detailed receipts are required for reimbursement. The reimbursement amount is generally limited to the federal per diem lodging rate, or as otherwise limited by the Mayor or City Administrator.

No reimbursement will be made for lodging when travel is to a City that is less than 30 miles from Huntsville (one-way), without prior approval from the Mayor's Office.

(c) Telephone & fax. Costs are subject to the approval of the Finance Department.

(d) Registration fees. Conference, seminar, or meeting fees are reimbursable, with receipts.

(e) Meals & tips. Reimbursement for all food and related expenses, not including the cost of alcoholic beverages, on trips that require an overnight stay will be reimbursed at actual cost, but in no event will exceed the "City Limit" as defined herein for a particular day. The City Limit, for purposes of this section, is defined as the lesser of (1) the rate of reimbursement established in the budget ordinance for each fiscal year or (2) the per diem rate as prescribed by the Internal Revenue Service using the "High-Low method" or other IRS-authorized method if the "High-Low method" is no longer authorized. Receipts are not required. The City Limit will be established in the budget ordinance for each fiscal year and will be adjusted as required such that it does not exceed the IRS-permitted amount. The City Limit on a daily basis is reduced by 25% of the City Limit for each meal that is (1) provided at events paid for by the City and (2) reasonably expected to occur outside the employee's time away from home.

Reimbursement for one meal, up to \$10.00, with receipt, is allowed for trips over eight (8) hours which do not require an overnight stay.

(f) Personal expenses. Personal expenses for items not essential for the performance of City business are not allowed. Personal items include, but are not limited to, alcoholic beverages, entertainment activities, newspapers, and souvenirs.

(i) Reimbursement for valet and laundry service charges, in reasonable amounts, is authorized under unusual circumstances, or when personnel are required to travel for extensive periods of time. Employees must have receipts for these services.

(ii) Textbooks or other conference materials, for which a fee is paid, become the property of the City. Officials approving such reimbursements are responsible for these items being retained by the City.

(g) Miscellaneous expenses. Miscellaneous expenses will be reimbursed up to \$5.00 without receipts per expense type. An explanation of these expenses should be provided on the expense report as backup for this request.

The Finance Department will prescribe the travel expense report form and administer the reimbursement of expenses consistent with this policy.

(E) Overtime or Compensatory Time for Overnight Travel

The City of Huntsville will not consider as work time that time spent in overnight travel that occurs outside of regular working hours as a passenger on an airplane, train, boat, bus, or car and where the employee is free to relax. If, however, the overnight travel occurs during normal working hours on nonworking days (i.e., Saturday or Sunday for an employee who works Monday to Friday), the time spent in travel is compensable. Without regard to when travel takes place, any work that an employee is required to perform while traveling must, of course, be counted as hours worked. Therefore, compensation as paid overtime or compensatory time is not authorized for overnight travel during non-working hours, unless work is actually performed.

(F) Exceptions

Any exceptions or unusual expenses not provided in these instructions must have specific approval. A memo justifying the exception must accompany the travel expense report and include approval of the Mayor or City Administrator.

22.15 EARLY RETIREMENT INCENTIVE (09-1138)

Any employee whose effective retirement date is between and including January 1, 2010, and June 1, 2010, and who would have at least twenty-five (25) years of active service with the City as of March 1, 2010, (excluding those employees who have been retired and separated from City of Huntsville service at any time prior to January 1, 2010), is eligible to participate in the City of Huntsville's Early Retirement Incentive Program. The employee's required number of years of "active service" under this paragraph must be actual employment time with the City of Huntsville, not "service credit" with the Retirement Systems of Alabama.

Eligible employees must enroll in the Retirement Incentive Program during the period beginning January 18, 2010, and ending on January 30, 2010, and must also submit a completed "Application for Retirement" (ERS Form 10) with the Retirement Systems of Alabama ("RSA") prior to the first day of the month immediately preceding the employee's retirement date. Employees who do not enroll within the time period specified in this paragraph (excluding any employee who has submitted an Application for Retirement (ERS Form 10) as of the date of adoption of this ordinance regarding an effective retirement date

of January 1, or February 1, 2010) shall not be eligible for, or entitled to, the Retirement Incentive provided in this Section.

Participating employees will receive an Incentive of \$500.00 per year of credited "RSA" service or per year of active service with the City, whichever number is higher, plus an amount equal to 10% of all sick leave credits available to the employee at the time of retirement (over and above any compensation for sick leave credits available to the employee under Section 10.7 of this policy manual). The employee will receive this Incentive, less amounts required to be withheld under state and federal law, along with his or her final paycheck upon retirement. For purposes of managing the impact of this incentive on the annual budget, the Mayor reserves the right to phase the implementation of this incentive, as a condition of receipt thereof, by determining the number of employees who may retire each month from March 1, 2010 through June 1, 2010. Nothing contained herein should be construed as authorization of the Mayor to determine whether or not an employee may retire. The foregoing phasing authorization applies only to eligibility of an employee for the Early Retirement Incentive.

22.16 LEADERSHIP DEVELOPMENT PROGRAM (12-989)

As an additional benefit to all eligible employees, the Leadership Development Program shall be established to provide an internal training program to current City of Huntsville's Deputy Directors, Managers and/or Supervisors. Participants will be nominated by their Department Head. Participants selected for the program will complete a program application. The program will provide participants a better understanding of the City's mission, objectives, departments, processes and facilities.

Lunches and a certificate of nominal value shall be provided to participants in the Leadership Development Program.

(THIS PAGE INTENTIONALLY LEFT BLANK)