

**City of Clinton
Clinton, North Carolina**



PERSONNEL POLICY

Revised July 23, 2008

Amended April 7, 2009

Amended November 4, 2009

Amended September 7, 2010

Amended February 7, 2012

Amended February 5, 2013

Amended May 20, 2014

Amended June 2, 2015

Amended October 6, 2015

Amended March 1, 2016

Amended January 3, 2024

Amended August 8, 2025

CITY OF CLINTON

PERSONNEL POLICY

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

Table of Contents

ARTICLE I. GENERAL PROVISIONS 6
 Section 1. Purpose of the Policy 6
 Section 2. Responsibilities of the City Council 6
 Section 3. Responsibilities of the City Manager 6
 Section 4. Responsibilities of the Executive Assistant/Human Resource Director . 7
 Section 5. Application of Policies, Plan, Rules, and Regulations..... 8
 Section 6. Departmental Rules and Regulations..... 8
 Section 7. Delegation of Disciplinary Actions 8

ARTICLE II. POSITION CLASSIFICATION PLAN 10
 Section 1. Purpose 10
 Section 2. Composition of the Position Classification Plan and Pay Plan 10
 Section 3. Use of the Position Classification Plan 10
 Section 4. Administration of the Position Classification Plan..... 10
 Section 5. Authorization of the Position Classification Plan..... 11
 Section 6. Request for Reclassification 11

ARTICLE III. THE PAY PLAN 12
 Section 1. Definition 12
 Section 2. Administration and Maintenance 12
 Section 3. Starting Salaries..... 12
 Section 4. Trainee Designation and Provisions..... 12
 Section 5. Probationary Pay Increases 14
 Section 6. Merit Pay..... 14
 Section 7. Merit Pay Bonus..... 14

Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications	14
Section 9. Salary Effect of Salary Range Revisions	15
Section 10. Transition to a New Salary Plan	15
Section 11. Effective Date of Salary Changes	16
Section 12. Overtime Pay Provisions.....	16
Section 13. Call-back and Stand-by Pay.....	17
Section 14. Payroll Deductions	17
ARTICLE IV. RECRUITMENT AND EMPLOYMENT	19
Section 1. Equal Employment Opportunity Policy	19
Section 2. Implementation of Equal Employment Opportunity Policy.....	20
Section 3. Recruitment, Selections and Appointment	20
Section 4. Probationary Period	21
Section 5. Promotion.....	21
Section 6. Demotion.....	22
Section 7. Transfer.....	22
ARTICLE V. CONDITIONS OF EMPLOYMENT	23
Section 1. Work Schedule.....	23
Section 2. Rest and Meal Periods.....	23
Section 3. Political Activity	23
Section 4. Outside Employment.....	24
Section 5. Employment of Relatives.....	24
Section 6. Use of Electronic Media and Equipment	24
Section 7. Acceptance of Gifts and Favors	25
Section 8. Performance Evaluation.....	25
Section 9. Safety.....	26
Section 10. Accident Review Board Policy.....	26
Section 11. Unlocking Vehicles	29
Section 12. Adverse Weather and Emergency Pay	29
ARTICLE VI. EMPLOYEE BENEFITS	31
Section 1. Eligibility	31
Section 2. Group Health and Hospitalization Insurance	31
Section 3. Group Life Insurance.....	31
Section 4. Other Optional Group Insurance Plans	31
Section 5. Retirement	31
Section 6. Supplemental Retirement Benefits.....	31
Section 7. Longevity Pay.....	32
Section 8. Social Security	33
Section 9. Workers' Compensation	33
Section 10. Unemployment Compensation	33
Section 11. Attendance at Conferences, Seminars, and Workshops	33

Section 12. Tuition Reimbursement.....	33
ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE.....	37
Section 1. Policy	37
Section 2. Holidays	37
Section 3. Holidays: Effect on Other Types of Leave.....	37
Section 4. Vacation Leave	37
Section 5. Vacation Leave: Use by Probationary Employees.....	38
Section 6. Vacation Leave: Accrual Rate	38
Section 7. Vacation Leave: Maximum Accumulation.....	38
Section 8. Vacation Leave: Manner of Taking.....	38
Section 9. Vacation Leave: Payment upon Separation	39
Section 10. Vacation Leave: Payment upon Death	39
Section 11. Sick Leave	39
Section 12. Sick Leave: Accrual Rate and Accumulation	40
Section 13. Transfer of Sick Leave from Previous Employer	40
Section 14. Sick Leave: Medical Certification.....	41
Section 15. Leave Prorated	41
Section 16. Family and Medical Leave.....	41
Section 17. Leave Without Pay	43
Section 18. Family Medical Leave and Leave Without Pay: Retention and Continuation of Benefits	44
Section 19. Workers' Compensation Leave	44
Section 20. Return to Work	45
Section 21. Military Leave.....	46
Section 22. Reinstatement Following Military Service.....	47
Section 23. Civil Leave	48
Section 24. Shared Leave.....	48
Section 25. Funeral Leave	51
ARTICLE VIII. SEPARATION AND REINSTATEMENT	52
Section 1. Types of Separations	52
Section 2. Resignation	52
Section 3. Reduction in Force	52
Section 4. Disability.....	52
Section 5. Voluntary Retirement	53
Section 6. Death	53
Section 7. Dismissal.....	53
Section 8. Reinstatement.....	53
Section 9. Rehiring.....	53
ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND/OR DETRIMENTAL PERSONAL CONDUCT	55
Section 1. Disciplinary Action for Unsatisfactory Job Performance	55

Section 2. Unsatisfactory Job Performance Defined	55
Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance	56
Section 5. Detrimental Personal Conduct Defined.....	56
Section 6. Pre-Disciplinary-Dismissal Conference.....	58
Section 7. Non-Disciplinary Suspension	58
Section 8. Substance Abuse Policy City of Clinton Substance Abuse Policy	59
Section 9. Workplace Violence	75
Section 10. Harassment.....	75
ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL	76
Section 1. Policy	76
Section 2. Grievance Defined	76
Section 3. Purposes of the Grievance Procedure	76
Section 4. Procedure	77
Section 5. Role of the Human Resource Director	78
Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination ..	79
ARTICLE XI. PERSONNEL RECORDS AND REPORTS	79
Section 1. Public Information	79
Section 2. Access to Confidential Records	79
Section 3. Personnel Actions	80
Section 4. Records of Former Employees.....	80
Section 5. Remedies of Employees Objecting to Material in File	81
Section 6. Penalties for Permitting Access to Confidential Records.....	81
Section 7. Examining and/or Copying Confidential Material without Authorization	81
Section 8. Destruction of Records Regulated	81
ARTICLE XII. IMPLEMENTATION OF POLICIES	82
Section 1. Conflicting Policies Repealed.....	82
Section 2. Separability	82
Section 3. Effective Date.....	82
APPENDIX A.....	83
APPENDIX B AFFIRMATIVE ACTION PLAN.....	85
APPENDIX C.....	94

ARTICLE I. GENERAL PROVISIONS

Section 1. Purpose of the Policy

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

The City embraces the following merit principles in administering its personnel program:

- 1) Applicants and employees shall be assured of fair treatment in all aspects of personnel administration.
- 2) Employees will be recruited, selected, trained and advanced on the basis of their relative ability, knowledge and skill.
- 3) Employees will be retained on the basis of the adequacy of their performance. They will be guided in ways to correct inadequate performance and separated when inadequate performance cannot be corrected.
- 4) Employees will receive equitable and competitive pay and benefits, and employees will receive merit pay increases based on the quality of their performance, subject to the availability of funds.

Section 2. Responsibilities of the City Council

The City Council shall be responsible for establishing and approving personnel policies, the position classification and pay plan, and may change the policies and benefits as necessary. They also shall make and confirm appointments when so specified by the general statutes.

Section 3. Responsibilities of the City Manager

The City Manager shall be responsible to the City Council for the administration and technical direction of the personnel program. The City Manager shall appoint, suspend, and remove all City officers and employees except those elected by the people or whose appointment is otherwise provided for by law. The City Manager is the final authority for directing the activities of all classified positions, and shall make appointments, dismissals and suspensions in accordance with the City Charter and other policies and procedures spelled out in other Articles in this Policy.

The City Manager shall:

- 1) Establish personnel policies and procedures as necessary to effectively accomplish the mission of the City;
- 2) Make changes as necessary to maintain an up to date and accurate position classification plan;
- 3) Recommend necessary revisions to the pay plan;
- 4) Determine which employees shall be subject to the overtime provisions of FLSA;
- 5) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City; and
- 6) Perform such other duties as may be assigned by the City Council not inconsistent with this Policy.

Section 4. Responsibilities of the Executive Assistant/Human Resource Director

The responsibilities of the Human Resource Director are to make recommendations to the City Manager on the following:

- 1) Recommend policies and revisions to the personnel system to the City Manager for consideration;
- 2) Recommend changes as necessary to maintain an up to date and accurate position classification plan;
- 3) Recommend necessary revisions to the pay plan;
- 4) Recommend which employees shall be subject to the overtime provisions of FLSA;
- 5) Maintain a roster of all persons in the municipal service;
- 6) Establish and maintain a list of authorized positions in the municipal service at the beginning of each budget year which identifies each authorized position, class title of position, salary range, any changes in class title and status, position number and other such data as may be desirable or useful;
- 7) Develop and administer such recruiting programs as may be necessary to obtain an adequate supply of competent applicants to meet the needs of the City;
- 8) Recommend changes in benefits coverage to the City Manager;

- 9) Coordinate training and educational programs for City employees;
- 10) Investigate periodically the operation and effect of the personnel provisions of this policy; and
- 11) Perform such other duties as may be assigned by the City Manager not inconsistent with this Policy.

Section 5. Application of Policies, Plan, Rules, and Regulations

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

Section 6. Departmental Rules and Regulations

Due to the particular personnel and operational requirements of the various departments of the City, each department is authorized to establish supplemental written rules and regulations applicable only to the personnel of that department. All such rules and regulations shall be subject to the approval of the City Manager, and shall not in any way conflict with the provisions of this Policy, but shall be considered as a supplement to this Policy. This policy prevails over department policies if there is any question.

Section 7. Delegation of Disciplinary Actions

The City Manager or department head may delegate authority to perform disciplinary suspension, demotion, or dismissal to a division head or other supervisor when such action is consistent with organizational efficiency and effectiveness.

Section 8. Definitions are hereby amended to include the following:

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

Full-time employee – An employee who is in a position for which an average work week equals at least 37.5 hours, and continuous employment of at least twelve (12) months, are required by the City.

Part-time employee – An employee who is in a position for which an average work week of at least twenty (20) hours and less than 37.5 hours.

Regular employee – An employee appointed to a full or part-time position who has

successfully completed the designated probationary period.

Probationary employee – An employee appointed to a full time position who has not yet successfully completed the designated probationary period.

Temporary employee – An employee appointed to a position for which either the average work week required by the City over the course of a year is less than twenty (20) hours, or continuous employment required by the City is less than twelve (12) months.

Trainee – An employee status when an applicant is hired (or employee promoted) who does not meet all of the requirements for the position. During the duration of a trainee appointment, the employee is on probationary status.

Permanent position – A position authorized for the budget year for a full twelve (12) months and budgeted for twenty (20) or more hours per week. All City positions are subject to budget review and approval each year by the City Council and all employees' work and conduct must meet City standards. Therefore, reference to "permanent" positions or employment should not be construed as a contract or right to perpetual funding or employment.

Exceptions related to: Section 207(k) of the Fair Labor Standards Act provides that:

Firefighters may work 212 hours in a 28-day cycle without overtime compensation.

Police officers may work 171 hours in a 28-day cycle without overtime compensation.

ARTICLE II. POSITION CLASSIFICATION PLAN

Section 1. Purpose

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

Section 2. Composition of the Position Classification Plan and Pay Plan

The classification plan shall consist of:

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

Section 3. Use of the Position Classification Plan

The classification plan is to be used:

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

Section 4. Administration of the Position Classification Plan

The Human Resource Director shall allocate each position covered by the classification plan to its appropriate class, and shall be responsible for the administration of the position classification plan.

Section 5. Authorization of the Position Classification Plan

The position classification plan shall be approved by the City Council and on file with the Human Resource Director. Copies will be available to all City employees for review upon request. New positions shall be established upon recommendation of the City Manager and approval of the City Council after which the City Manager, assisted by the Human Resource Director, shall either allocate the new position into the appropriate existing class, or revise the position classification plan to establish a new class to which the new position may be allocated.

Section 6. Request for Reclassification

Any employee who considers the position in which classified to be improper shall submit a request in writing for reclassification to such employee's immediate supervisor, who shall immediately transmit the request through the department head to the City Manager who shall determine appropriate action. A department head who has reason to think a position is improperly classified should submit the request for reclassification, with rationale, to the City Manager.

ARTICLE III. THE PAY PLAN

Section 1. Definition

The Pay Plan includes the basic salary schedule and the "List of Classes Arranged by Grades" to be adopted by the Council. The salary schedule consists of salary grades with minimum hiring, midpoint, and maximum. There is a five percent (5%) spread between steps one (1) and two (2). Additional increases are tied to the results of the individual employee annual performance evaluation. This new concept changes the City of Clinton's Pay Plan from a structured to flexible plan. Each class is assigned to a salary grade based on consideration of the external labor market and interval comparisons.

Section 2. Administration and Maintenance

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

The pay plan is intended to provide equitable compensation for all positions, reflecting differences in the duties and responsibilities, the comparable rates of pay for positions in private and public employment in the area, changes in the cost of living, the financial conditions of the City, and other factors. To this end, from time to time the Human Resource Director shall make comparative studies of all factors affecting the level of salary ranges and will recommend to the City Manager such changes in salary ranges as appear to be pertinent. Such assignments will be made by increasing or decreasing the assigned salary grade for the class and adjusting the rate of pay for employees in the class when the action is approved by the City Council.

Section 3. Starting Salaries

All persons employed in positions approved in the position classification plan shall normally be employed at the minimum salary for the classification in which they are employed. However, consideration may be given to paying above the minimum salary rate, based on considerations such as an exceptionally well qualified applicant, or a shortage of available qualified applicants. Approval is required by the City Manager.

Section 4. Trainee Designation and Provisions

Applicants being considered for employment or City employees who do not meet all of the requirements for the position for which they are being considered may be hired, promoted, demoted, or transferred to a "trainee" status. In such cases, a plan for training, including a time schedule, must be prepared by the department head. "Trainee" salaries

shall be one (1) or (no more than) two (2) grades below the minimum salary established for the position for which the person is being trained. A new employee designated as "trainee" shall concurrently serve a probationary period. However, probationary periods shall be no less than six (6) months and trainee periods may extend from three (3) to eighteen (18) months. A trainee shall remain a probationary employee until the trainee period is satisfactorily completed.

If the training is not successfully completed to the satisfaction of the City, the trainee shall be transferred, demoted, or dismissed. If the training is successfully completed, the employee shall be paid at least at the minimum rate established for the position for which the employee was trained.

Section 4b. Temporary One-Year Fellow

When an individual is hired by the City through the Lead for North Carolina, he/she is hired to participate in a potentially two (2) year premiere fellowship program for recent college graduates through a state affiliated program of Lead for America. He/she will enter into two (2) single-year employment contracts with the City of Clinton. This program is coordinated by the UNC Chapel Hill School of Government and in partnership with the NC City and County Manager Association, the NC League of Municipalities, and the NC Association of County Commissioners.

The purpose of this position is to generate interest in young talent to local governments; provide opportunity to economically depressed communities; increase diversity and passion in transactional and transformational issues; and foster a sense of economic responsibility.

This position will be classified as a temporary non-exempt one-year employee. The fellow will be paid hourly for a maximum of forty (40) hours per week. The annual salary will be designated by the NC Lead, and approved within the city budget.

An annual health insurance stipend (amount as designated by the NC Lead) will be offered to the fellow as an additional salary to purchase health insurance or he/she will be offered the opportunity to participate in the City's health insurance program. If the fellow already has health insurance, a signed waiver will be required.

The fellow will not receive any annual leave or other paid time off and will not be eligible for any other employee benefits.

Section 4c. Interim Designation

When an employee is designated as an interim for a supervisor's position, the employee's salary shall be advanced two and a half (2.5) percent. When an employee is designated as an interim for a department head's position, the employee's salary shall be advanced

five (5) percent. The increase shall remain in effect for the duration of the interim status.

The purpose of the pay increase is to recognize and compensate the employee for taking on increased responsibilities. Effective upon an employee's reassignment to his/her previous job responsibilities, his/her salary shall be remanded accordingly.

(Adopted by City Council on September 7, 2010)

Section 5. Probationary Pay Increases

Employees employed at the minimum salary rate for a class shall receive an increase from step one (1) to step two (2) upon successful completion of the probationary period. Step two (2) shall be based on the pay plan in effect at time of probationary evaluation. An employee hired, promoted or reallocated to a class for which he/she does not qualify, and is paid below the minimum salary for the class may receive an increase upon completion of probation, not to exceed the minimum rate. Once the employee fully qualifies, and has successfully completed the probationary period, the salary shall be increased to step two (2) of the range assigned to the class.

Section 6. Merit Pay

Employees may be considered for advancement within the established salary range based on the quality of their overall performance. Procedures for determining performance levels and performance pay increases shall be established by the City Manager.

Section 7. Merit Pay Bonus

Employees who are at the top step of the salary range for their position classification are eligible to be considered for a Merit bonus at their regular performance evaluation time. Merit bonuses shall be awarded based upon the performance of the employee as described in the annual performance evaluation and shall be the same percentage of annual salary as employees within the salary range with the same performance level. Merit bonuses do not become part of base pay and may be awarded in lump sums at one time.

Section 8. Salary Effect of Promotions, Demotions, Transfers, and Reclassifications

Promotions – When an employee is promoted, the employee's salary shall normally be advanced to the minimum level of the new position, or to a salary which provides an increase of at least five percent (5%) over the employee's salary before the promotion, provided, however, that the new salary may not exceed the maximum rate of the new salary range. The purpose of the promotional pay increase is to recognize and

compensate the employee for taking on increased responsibility.

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

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

Reclassifications – An employee whose position is reclassified to a class having a higher salary range shall receive a pay increase of at least approximately two and a half percent (2.5%) or an increase to the minimum of the new pay range, whichever is higher. If the employee has completed probation, the employee's salary shall be advanced to at least the probation completion amount in the new range.

If the position is reclassified to a lower pay range, the employee's salary shall remain the same, except when the employee's performance contributes to the requirement to reclassify the position. If the employee's salary is above the maximum established for the new range, the salary of that employee shall be maintained at the current level until the range is increased above the employee's salary.

Section 9. Salary Effect of Salary Range Revisions

When a class of positions is assigned to a higher salary range, employees in that class shall receive a pay increase of at least approximately two and a half percent (2.5%), or to the minimum step of the new range, whichever is higher. If the employee has passed probation, the employee's salary shall be advanced at least to the probation completion amount in the new range. When a class of positions is assigned to a lower salary range, the salaries of employees in that class will remain unchanged. If this assignment to a lower salary range results in an employee being paid at a rate above the maximum step established for the new class, the salary of that employee shall be maintained at that level until such time as the employee's salary range is increased above the employee's current salary.

Section 10. Transition to a New Salary Plan

The following principles shall govern the transition to a new salary plan:

- 1) No employee shall receive a salary reduction as a result of the transition to a new salary plan.

- 2) All employees being paid at a rate lower than the minimum rate established for their respective classes shall have their salaries raised to the new minimum for their classes.
- 3) All employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate listed in the salary schedule; all employees not at a listed rate shall have their salaries raised to a listed rate.
- 4) All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary.

Section 11. Effective Date of Salary Changes

Salary changes approved after the first working day of a pay period shall become effective at the beginning of the next pay period or at such specific date as may be provided by procedures approved by the City Manager.

Section 12. Overtime Pay Provisions

Employees of the City can be requested and may be required to work overtime hours as necessitated by the needs of the City and determined by the department head with the approval of the City Manager.

Overtime work is of an unusual, unscheduled or emergency nature and is required by the department head or an authorized representative of the department.

To the extent that local government jurisdictions are so required, the City will comply with the Fair Labor Standards Act (FLSA). The Human Resource Director shall determine which jobs are "non-exempt" and are therefore subject to the Act in areas such as hours of work and work periods, rates of overtime compensation, and other provisions.

Non-exempt employees will be paid at a straight time rate for hours up to the FLSA established limit for their position. Hours worked beyond the FLSA established limit will be compensated in either time or pay at the appropriate overtime rate. In determining eligibility for overtime in a work period, hours actually worked shall be considered; in addition travel, waiting time, and certain meal, rest and sleep periods will be included in the computation of hours worked. Hours an employee is off for annual leave, sick leave or holidays are not considered work time. Compensatory leave requires approval by the City Manager when creating a balance that exceeds 40 hours.

Whenever practicable, departments will schedule time off at a rate of one and one-half (1

½) hours for every hour of overtime worked with the applicable work period for non-exempt employees, instead of paying overtime. When time off within the work period cannot be granted, overtime worked will be paid in accordance with the FLSA.

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

Section 13. Call-back and Stand-by Pay

The City provides a continuous twenty-four (24) hour a day, seven (7) day a week service to its customers. Therefore, it is necessary for certain employees to respond to any reasonable request for duty at any hour of the day or night. One of the conditions of employment with the City is the acceptance of a share of the responsibility for continuous service, in accordance with the nature of each job position. If an employee fails to respond to reasonable calls for emergency service, either special or routine, the employee shall be subject to disciplinary actions up to and including dismissal.

Shift employees required to perform work on regularly scheduled holidays may be granted compensatory time off or paid at their hourly rate for hours actually worked in addition to any holiday pay to which they are entitled. If a holiday falls on a regularly scheduled off-duty day for shift personnel, the employee shall receive the hours for paid holiday leave at another time. Department heads are to ensure that this compensatory time is granted within ninety (90) days, and if this is not feasible the Department head shall discuss the situation with the City Manager. Normally the employee shall be paid for the holiday compensatory time after ninety (90) days, if time off is not taken.

Section 14. Payroll Deductions

Deductions shall be made from each employee's salary, as required by law. Additional deductions may be made upon the request of the employee on determination by the City Manager as to capability of payroll equipment and appropriateness of the deduction.

There are three (3) categories of payroll deductions. All payroll deductions must be authorized by the Mayor and City Council.

- 1) Statutory deductions that are mandatory for all City employees:
 - a. FICA
 - b. Federal Income Tax

- c. State Income Tax
 - d. LGERS - Local Government Employees Retirement System
 - e. Medicare
- 2) Voluntary deductions. These must be authorized by the employee in writing:
- a. Life Insurance
 - b. Deferred Compensation
 - c. Hospitalization Insurance
 - d. 401-K Plan
 - e. Disability
 - f. Credit Union Loans
 - g. United Way
 - h. Cancer and Accident Insurance
 - i. Other types of Savings
 - j. Purchasing, through the City, required equipment not furnished by the City
- 3) Special deductions. These deductions may be required, upon authorization by the City Manager, but will not require approval of the employee.
- a. Tax Garnishments
 - b. Overpayment of wages
 - c. Underpayment of Statutory Deductions
 - d. Court Orders
 - e. Reimbursement of City Property

The City shall provide longevity pay to all permanent, full-time city employees who meet the following service requirements:

- 1) Completion of at least five (5) years of continuous, full-time service.
- 2) An employee must remain in continuous, full-time status from one anniversary date to the next; except than an employee shall be paid longevity upon retirement.
- 3) Payments will be made during the month of the anniversary date.
- 4) A person who has a break in service shall receive service credit for longevity pay beginning with the date of re-hire.
- 5) Military leave is not considered a break for the purpose of establishing length of service as long as a discharge from service is not dishonorable; and providing that the returning veteran is not employed full time between the discharge date and date of re-instatement of a full-time city employee.

- 6) Other authorized leave without pay is not considered a break in service for the purpose of establishing length of service.
- 7) Annual longevity pay shall be reduced by one twelfth (1/12) of the gross annual amount for each month that a retirement date is prior to the anniversary date.
- 8) Annual longevity pay shall be reduced by one twelfth (1/12) of the gross annual amount for each month during the preceding anniversary year that an employee is on authorized leave without pay.
- 9) The following schedule shall apply:

Years of Service Amount of Longevity Award

5 to 7 years	\$ 400
8 to 10 years	\$ 500
11 to 13 years	\$ 600
14 to 16 years	\$ 700
17 to 19 years	\$ 800
20 to 22 years	\$ 900
23 to 25 years	\$1000
26 to 28 years	\$1100
29 years plus	\$1200

- 10) The following definitions apply with respect to longevity pay:
 - a. Continuous Service: Service without a break in employment status.
 - b. Break in Service: A break in service results when a former employee is rehired following a resignation or discharge.

(Adopted 2002, October 1 – retroactive to July 1, 2002)

ARTICLE IV. RECRUITMENT AND EMPLOYMENT

Section 1. Equal Employment Opportunity Policy

It is the policy of the City to foster, maintain and promote equal employment opportunity. The City shall select employees on the basis of the applicant's qualifications for the job

and award them, with respect to compensation and opportunity for training and advancement, including upgrading and promotion, without regard to age, sex, race, color, religion, national origin, disability, political affiliation, or marital status. Applicants with physical disabilities shall be given equal consideration with other applicants for positions in which their disabilities do not represent an unreasonable barrier to satisfactory performance of required duties with or without reasonable accommodation.

Section 2. Implementation of Equal Employment Opportunity Policy

All personnel responsible for recruitment and employment will continue to review regularly the implementation of this personnel policy and relevant practices to assure that equal employment opportunity based on reasonable, job-related requirements is being actively observed to the end that no employee or applicant for employment shall suffer discrimination because of age, sex, race, color, religion, disability, national origin, political affiliation, or marital status. Notices with regard to equal employment matters shall be posted in conspicuous places on City premises in places where notices are customarily posted.

Section 3. Recruitment, Selections and Appointment

Recruitment Sources – When position vacancies occur, the Human Resource Director shall publicize these opportunities for employment, including applicable salary information and employment qualifications. Information on job openings and hiring practices will be published in local and/or other news media as necessary to inform the community and create a quality and diverse pool of applicants. In addition, notice of vacancies shall be posted at designated conspicuous sites within departments. Individuals shall be recruited from a geographic area as wide as necessary and for a period of time sufficient to ensure that well-qualified applicants are obtained for City service. The North Carolina Employment Security Commission may be used as a recruitment source. In rare situations because of emergency conditions, high turnover, etc., the City may hire or promote without advertising jobs, upon approval of the City Manager.

Job Advertisements – Employment advertisements shall contain assurances of equal employment opportunity and shall comply with Federal and State statutes.

Application for Employment – Applications for employment shall be given only in the event of a vacancy except for the Police and Fire Departments. However, individuals seeking employment as police officers or firefighters may complete an interest card for future employment.

Application Reserve File – Applications shall be kept in an inactive reserve file for a period of two (2) years, in accordance with Equal Employment Opportunity Commission guidelines.

Selection – Department heads, with the assistance of the Human Resource Director, shall make such investigations and conduct such examinations as necessary to assess accurately the knowledge, skills, and experience qualifications required for the position. All selection devices shall be valid measures of job performance.

Pre-Employment Screening – The City reserves the right to require pre-employment screening that may include reference checks, driving record reviews, social security verifications, consumer credit checks, physical agility test, skills test and criminal background checks as well as a pre-employment drug screen.

Appointment – Before any commitment is made to an applicant either internal or external, the department head shall make recommendations to the Human Resource Director including the position to be filled, the salary to be paid, and the reasons for selecting the candidate over other candidates. The Human Resource Director and department head shall recommend approval of appointments and the starting salary for all applicants to the City Manager.

Section 4. Probationary Period

An employee appointed or promoted to a permanent position shall serve a probationary period. Employees shall serve a six (6) month probationary period. During the probationary period, supervisors shall monitor an employee's performance and communicate with the employee concerning performance progress. Before the end of the probationary period, the supervisor shall conduct a performance evaluation conference with the employee and discuss accomplishments, strengths, and needed improvements. A summary of this discussion shall be documented in the employee's personnel file. The supervisor shall recommend in writing whether the probationary period should be completed, extended, or the employee transferred, demoted, or dismissed. Probationary periods may be extended for a maximum of six (6) additional months.

Disciplinary action, including demotion and dismissal, may be taken at any time during the probationary period of a new hire without stating a reason and without following the steps outlined in this Policy. A promoted employee who does not successfully complete the probationary period may be transferred or demoted to a position in which the employee shows promise of success. If no such position is available, the employee shall be dismissed. Promoted employees retain all other rights and benefits such as the right to use of the grievance procedures.

Section 5. Promotion

Promotion is the movement of an employee from one position to a vacant position in a class assigned to a higher salary range. It is the City's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is the best suited of all applicants, that applicant shall be appointed to that

position. The City will balance three (3) goals in the employment process:

- 1) The benefits to employees and the organization of promotion from within;
- 2) Providing equal employment opportunity and a diversified workforce to the community; and
- 3) Obtaining the best possible employee who will provide the most productivity in that position.

Therefore, except in rare situations where previous City experience is essential (such as promotions to Police Sergeant), or exceptional qualifications of an internal candidate so indicate, the City will consider external and internal candidates rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Internal candidates shall apply for promotions using the same application process as external candidates.

Section 6. Demotion

Demotion is the movement of an employee from one position to another position within a class assigned to a lower salary range. An employee whose work or conduct in the current position is unsatisfactory may be demoted provided that the employee shows promise of becoming a satisfactory employee in the lower position. Such demotion shall follow the disciplinary procedures outlined in this policy.

Section 7. Transfer

Transfer is the lateral movement of an employee from one position to another position within a class in the same salary range. If a vacancy occurs and an employee in another department is eligible for a transfer, the employee shall submit a letter of interest to the Human Resource Director. The department head wishing to transfer an employee to a different department or classification shall make a recommendation to the City Manager with the consent of the receiving department head. Any employee transferred without requesting the action may appeal the action in accordance with the grievance procedure outlined in this policy. An employee who has successfully completed a probationary period may be transferred into the same classification without serving another probationary period.

It is the policy of the City to transfer employees temporarily or permanently from one department to another when doing so will serve the City's best interest. This policy permits maximum utilization of manpower during unanticipated emergency situations, during peak workloads and for shifting help to where it is needed most.

ARTICLE V. CONDITIONS OF EMPLOYMENT

Section 1. Work Schedule

Department heads shall establish work schedules, with the approval of the City Manager, which meet the operational needs of the department in the most cost effective manner possible.

Section 2. Rest and Meal Periods

The City makes no attempt to define or regulate a policy for rest periods or coffee breaks that can be uniformly applied for employees in all departments and divisions. Because there are numerous variations in work schedules and conditions, a department head and/or supervisor may establish an appropriate rest period policy that will best serve the City's interest. The City also allows each employee a maximum of one hour for lunch. It must be recognized that there may be circumstances which make designated rest periods or lunch breaks impossible; and therefore the department head will address the question accordingly.

If it is feasible, however, a department head may provide two (2), ten (10) minute rest periods per day within the building or at the job site. Of course, rest periods are not considered cumulative or mandatory. Urgent City business is always expected to take precedence over a coffee break.

Section 3. Political Activity

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

- 1) Engage in any political or partisan activity while on duty;
- 2) Use or threaten to use his/her official authority or influence for the purpose of favoring or opposing any candidate, or of interfering with or affecting the result of a nomination or an election for office;
- 3) Be required as a duty of employment or as condition for employment, promotion or tenure of office to contribute funds for political or partisan purposes;
- 4) Coerce or compel contributions from another employee of the City for political or

partisan purposes;

- 5) Use any supplies or equipment of the City for political or partisan purposes; or
- 6) Be a candidate for nomination or election to office under the City Charter;

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

Section 4. Outside Employment

The work of the City shall have precedence over other occupational interests of employees. All outside employment for salaries, wages, or commission and all self-employment must be reported in advance to the employee's supervisor, who in turn will report it to the department head. The department head will review such employment for possible conflict of interest and decide whether to approve the work. Conflicting or unreported outside employment is grounds for disciplinary action up to and including dismissal. Department heads shall not be engaged in outside employment unless approved by the City Manager.

Section 5. Employment of Relatives

The City prohibits the hiring and employment of immediate family in permanent positions within the same work unit, with the exception of part-time firefighters. "Immediate Family" is defined in Article VII, Section 13. The City also prohibits the employment of any person into a permanent position who is an immediate family member of individuals holding the following positions: Mayor, Mayor Pro Temp, City Council Member, City Manager, Human Resource Director, Finance Officer, City Clerk, or City Attorney. Otherwise, the City will consider employing family members or related persons in the service of the City, provided that such employment does not:

- 1) Result in a relative supervising relatives;
- 2) Result in a relative auditing the work of a relative;
- 3) Create a conflict of interest with either relative and the City; or
- 4) Create the potential or perception of favoritism.

(Rev. 2004, January 6)

Section 6. Use of Electronic Media and Equipment

With regard to use of electronic media and office equipment (electronic mail, the internet,

voice mail, or any other City-provided equipment), outlined below are the City of Clinton's expectations:

- 1) This equipment is City property and is provided for your use in carrying out City business.
- 2) The City expects that employees will utilize this equipment in a responsible and professional manner.
- 3) Employees may make reasonable personal use of publicly owned or provided equipment, as long as:
 - a. Its use supports the mission of the agency;
 - b. There is no negative impact on employee performance of public duties;
 - c. The policy is applied consistently;
 - d. Employees reimburse the agency if costs are incurred.

The City reserves the right to monitor these systems at any time and without notice to ensure that they are being used for business purposes and that this policy is being uniformly respected.

Inappropriate, non-business content including, but not limited to, sexually-explicit material, gambling, and discriminatory statements transmitted on any City equipment will be considered a violation of this policy.

Employees do not have a personal privacy right in any matter created, received, stored in or sent to or from the City's equipment. In addition, as a public employer, phone numbers, voice mail transmissions, email addresses and email correspondence may be a matter of public record.

Inappropriate use of City time, supplies, and equipment may result in disciplinary action up to and including dismissal.

Section 7. Acceptance of Gifts and Favors

No official or employee of the City shall accept any gift, favor, or thing of value that may tend to influence such employee in the discharge of the employee's duties, or grant in the discharge of duty an improper favor, service, or thing of value.

Section 8. Performance Evaluation

Supervisors and/or department heads shall conduct Performance Evaluation conferences with each employee at least once a year. These performance evaluations shall be documented in writing and placed in the employee's personnel file. Probationary employees shall be evaluated in accordance with Article IV Section 4 and shall not receive performance increases until probationary period has been completed.

Section 9. Safety

Safety is the responsibility of both the City and employees. It is the policy of the City to establish a safe work environment for employees. The City shall establish a safety program including policies and procedures regarding safety practices and precautions and training in safety methods. Department Heads and supervisors are responsible for insuring the safe work procedures of all employees and providing necessary safety training programs. Employees shall follow the safety policies and procedures and attend safety training programs as a condition of employment. Employees who violate such policies and procedures shall be subject to disciplinary action up to and including dismissal.

Section 10. Accident Review Board Policy

In order to find the causes of employee accidents and/or the misuse of City property, the Accident Review Board is to be formed by the City of Clinton.

The Board's responsibilities are:

- 1) To review causes of accidents of employees.
- 2) To find possible solutions to those causes that are detected.
- 3) To find if there is or is not fault on the part of the employee.
- 4) Where there is fault on the part of an employee, these findings and a recommendation as to what action is to be taken, are to be forwarded to the City Manager. The decision is sent to the respective Department Director and the chairperson shall ensure implementation.
- 5) To inform the Health and Safety Committee of findings and possible solutions to prevent future accidents, when applicable.

Accident Review Board

The Accident Review Board is to consist of nine (9) members. One each from Recreation, Police, Fire, and five (5) appointees from the Public Works Department and

a chairperson who will be appointed by the City Manager and who will vote only in cases of a tie.

No Department Director will be eligible to serve on this Board. On or before July 10th of each year, the present chairperson will request Department Directors to submit to the chairperson the name(s) of his/her representative to make certain the whole make-up of the Board is in proportion to the City's workforce as it applies to sex and race. The chairperson will notify the members of their appointment no later than July 25th of each year.

No employee will serve for more than twenty-four (24) consecutive months—unless the Department Director deems the employee to serve longer.

The Board will hold its meetings on the fourth Wednesday of any month beginning at 9:30 AM in the City Hall Auditorium as needed. Meeting times and days are subject to change occasionally. The chairperson of the Accident Review Board will call all meetings.

Cases Reviewed by Board

Any City of Clinton real or personal property that is damaged, destroyed, or misplaced by an employee that requires an estimated repair or replacement cost of two thousand five hundred dollars (\$2,500) or more will be reported, in writing, to the City Clerk/chairperson by the appropriate Department Director.

Any employee who has an accident in a City vehicle when the Police Department's investigation estimates that the total damage is two five hundred thousand dollars (\$2,500) or more will be reported to the City Manager by the appropriate Department Director

All vehicular accidents involving non-City of Clinton real or personal property will be reported immediately to the law enforcement agency that has jurisdiction in the area that the accident occurred. The employee shall notify his/her direct supervisor immediately.

Reports/Notifications by Department Directors concerning vehicular accidents or damage to City property within the monetary limits described will be given to the City Clerk/chairperson within forty-eight (48) hours of the occurrence.

The City Clerk/chairperson will review each Department Director's report. The City Clerk/chairperson will forward those reports to the Accident Review Board's chairperson. The chairperson will in turn contact the Board members and the respective Department Directors as to date, time, and place that the Accident Review Board will convene. Reports/Notifications by Department Directors concerning vehicular accidents or damage to City property within the monetary limits described will

be given to the City Clerk/chairperson within forty-eight (48) hours of the occurrence.

The City Clerk/chairperson will review each Department Director's report. The City Clerk/chairperson will contact the Board members and the respective Department Directors as to date, time, and place that the Accident Review Board will convene.

Department Directors are responsible to see that all employees who are under their jurisdiction, that have been summoned by the Accident Review Board, are present at the meeting.

Administrative Procedures for Accident Review Board Findings.

- 1) When the Board finds no fault on the employee's part, then such findings are sent to the City Clerk/chairperson, who in turn forwards the results to the appropriate Department Director.
- 2) Where there is fault on the part of an employee, these findings and what action is to be taken, are to be forwarded to the City Manager. The City Manager, in turn, approves or disapproves the findings. If the City Manager agrees with the recommendation of the Board, the decision is sent to the appropriate Department Director for implementation. The chairperson will follow up on implementation.
- 3) Where there is fault on the part of an employee, and he/she wants to accept fault, he/she can opt out of the hearing by filling out an "At-Fault" form agreeing to the fault. No hearing is necessary when this occurs. The City Clerk/chairperson investigates the matter to determine first fault accident, second fault accident, etc., and follows up on the implementation.
- 4) In order to ensure standard procedures are followed when an employee involved in an accident is **found to be at fault**, the following is to be in effect:
 - a. First **fault** accident in a one year period -
One day suspension without pay (based on an 8-hour workday)
 - b. Second fault accident in a one year period -
Two days suspension without pay (based on an 8-hour workday; and two days equate to 16 hours)
 - c. Third fault accident in a one year period –
This could result in dismissal from employment with the City of Clinton, and in no case will be less than two weeks suspension without pay. (Two weeks equate to 80 hours)
- 5) In order to ensure standard procedures are followed when an employee involved in

an accident is **found not to be at fault**, the following is to be in effect:

- a. No fault on the part of the employee - No suspension

(Note: One year period relates to a calendar year, January through December. Also, the term “suspension” will be interpreted as appropriate number of days without pay. Accumulated vacation leave, sick leave, or compensatory time will not be used or earned to satisfy these findings.)

Employee Appeal

Employees have a right to appeal. The appeal procedure is the same for a case originating with the Accident Review Board as that used in any other employee grievance. This format is described in the Personnel Policy and Employee’s Handbook.

The Accident Review Board is administrative and deals with administrative actions. Violations of City Policies can be pointed out **but in no case are they to be handled by the Accident Review Board.** Violations of City policies and regulations are to be dealt with by the Department Director of the respective employee.

Section 11. Unlocking Vehicles

Any City of Clinton employee (full or part-time) who uses city equipment to assist a non-city employee to start or unlock their vehicle will be personally liable if damages occur.

(Adopted 2001, July 3)

Section 12. Adverse Weather and Emergency Pay

As a governmental agency, the City of Clinton is required to provide essential services for its citizens regardless of weather conditions. Therefore, the following policy has been developed to address city operations during periods of adverse weather or emergency situations.

Adverse Weather

- 1) Each employee is expected to report to his/her workstation each work day and to make the necessary advance preparations so he/she can get to work in periods of inclement weather.
- 2) Each employee must evaluate his/her personal situation for safety concerns and if he/she cannot report to work, vacation leave or earned compensation time must be used.

- 3) Each employee must obtain permission or notify his/her supervisor when not reporting to work or leaving work before the end of the workday.
- 4) During emergency situations or disasters, an employee may be reassigned to other facilities to assist as needed.

Emergency Pay - State of Emergency is declared by the Mayor during disaster situations.

- 1) All exempt employees (excluding the City Manager and department heads) shall be compensated at a rate of one and one half (1 ½) hours for all hours worked above their normal work period (40 Non-Public Safety/ 212 Fire/171 Police)
- 2) All employees on prior approved leave (vacation or sick) who do not work during the declared emergency will be unaffected by this policy, unless the employee's presence is deemed as essential and his/her vacation is cancelled by the department head/City Manager.
- 3) Any employee not reporting to work as directed by his/her department head or the City Manager shall be deemed absent without approved leave and shall be subject to disciplinary action in accordance with the Personnel Policy.
- 4) Payment of overtime during emergency periods will not jeopardize or change an employee's exempt status.

ARTICLE VI. EMPLOYEE BENEFITS

Section 1. Eligibility

All full-time employees of the City are eligible for employee benefits as provided for in this policy. These benefits are subject to change at the City's discretion. Part-time employees are eligible for Workers' Compensation. Temporary employees are eligible only for Workers' Compensation.

Section 2. Group Health and Hospitalization Insurance

The City provides group health and hospitalization insurance programs for full-time employees starting on the first of the month following a thirty (30) day waiting period. Premiums for coverage of other members of the employee's family shall be paid by the employee.

Information concerning cost and benefits shall be available to all employees from the Finance Office.

Section 3. Group Life Insurance

The City may elect to provide group life insurance for each eligible employee subject to the stipulations of the insurance contract. Employees may elect to purchase additional coverage and/or to insure other family members under this plan at their expense subject to the stipulations of the insurance contract.

Section 4. Other Optional Group Insurance Plans

The City may make other group insurance plans available to employees upon authorization of the City Manager or City Council.

Section 5. Retirement

Each employee who is expected to work for the City more than one thousand (1,000) hours annually shall join the North Carolina Local Governmental Employees' Retirement System when eligible as a condition of employment. New hires who are current members of the NC Local or State Government Employees' Retirement Systems shall be covered under the retirement system by the City beginning on the first day of the month following a thirty (30) day waiting period. The City and employees contribute amounts required by the Retirement System.

Section 6. Supplemental Retirement Benefits

The City may provide supplemental retirement benefits for its full-time employees. Each law enforcement officer shall receive 401-K benefits as prescribed by North Carolina State

Law and beginning on the first day of employment. Each employee may receive supplemental benefits as approved by the City Council.

For policy regarding law enforcement special separation allowance see Appendix C.

Section 7. Longevity Pay

The City shall provide longevity pay to all permanent, full-time city employees who meet the following service requirements:

- 1) Completion of at least five (5) years of continuous, full-time service.
- 2) An employee must remain in continuous, full-time status from one anniversary date to the next; except that an employee shall be paid longevity upon retirement.
- 3) Payments will be made during the month of the anniversary date.
- 4) A person who has a break in service shall receive service credit for longevity pay beginning with the date of re-hire.
- 5) Military leave is not considered a break for the purpose of establishing length of service as long as a discharge from service is not dishonorable; and providing that the returning veteran is not employed full time between the discharge date and date of re-instatement of a full-time city employee.
- 6) Other authorized leave without pay is not considered a break in service for the purpose of establishing length of service.
- 7) Annual longevity pay shall be reduced by one twelfth (1/12) of the gross annual amount for each month that a retirement date is prior to the anniversary date.
- 8) Annual longevity pay shall be reduced by one twelfth (1/12) of the gross annual amount for each month during the preceding anniversary year that an employee is on authorized leave without pay.
- 9) The following schedule shall apply:

<u>Years of Service</u>	<u>Amount of Longevity Award</u>
5 to 7 years	\$ 400
8 to 10 years	\$ 500
11 to 13 years	\$ 600
14 to 16 years	\$ 700
17 to 19 years	\$ 800
20 to 22 years	\$ 900
23 to 25 years	\$1000

26 to 28 years	\$1100
29 years plus	\$1200

10) The following definitions apply with respect to longevity pay:

- a. Continuous Service: Service without a break in employment status.
- b. Break in Service: A break in service results when a former employee is rehired following a resignation or discharge.

(Adopted 2002, October 1 – retroactive to July 1, 2002)

Section 8. Social Security

The City, to the extent of its lawful authority and power, extends Social Security benefits for its eligible employees and eligible groups and classes of such employees.

Section 9. Workers' Compensation

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

Responsibility for claiming compensation under the Workers' Compensation Act is on the injured employee, and such claims must be filed by the employee with the North Carolina Industrial Commission within two (2) years from date of injury. The City Clerk will assist the employee in filing the claim.

Section 10. Unemployment Compensation

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

Section 11. Attendance at Conferences, Seminars, and Workshops

The City encourages employees to attend relevant conferences, seminars, workshops, etc., so that they may provide better services to the citizens of the City. Advanced approval is required in accordance with the City of Clinton Travel Policy adopted November 2002.

Section 12. Tuition Reimbursement

The City of Clinton shall encourage the improvement of service by providing all employees with opportunities to improve skills and job performance or to prepare them for promotional opportunities within the City service by means of a Tuition Reimbursement Policy.

- 1) Organizations/personnel affected: all departments; all full-time personnel.
- 2) Effective Date: April 4, 2006
- 3) Definitions:
 - a. **Approved Course** – An approved course is one, which will either improve the employee’s ability to perform his/her present job or will help prepare the employee for a job with the City, which will require a higher level of knowledge, responsibility and/or skill.
 - b. **Accredited College, University or Technical Institute or Correspondence School** – an institution that meets national standards and requirements of a nationally recognized accrediting agency. Additional information regarding national accredited institutions and agencies may be found on the U.S. Department of Education’s website at www.ed.gov.
 - c. **Eligible Expenses** – Tuition, registration fees, books, laboratory fees and student fees, when charged, are the eligible reimbursement items. Special equipment, tools, and miscellaneous supplies such as pencils and paper are not reimbursable expenditures. Employees may be reimbursed up to one thousand dollars (\$1000) in any fiscal year.
 - d. **Successful Course Completion** – Successful course completion will normally be construed to be a grade of “C” or better for undergraduate course work and “B” or better for graduate course work when grade letters are given. Otherwise, as in the case of “Pass/Fail” courses, or in courses when no grade is given, a written statement of successful completion

from the instructor will be acceptable to demonstrate successful completion of a course.

TUITION REIMBURSEMENT PROCEDURE/RULE:

- 1) Eligibility – All full-time permanent employees who are not receiving educational financial assistance from another governmental source, e.g., Veteran Administration benefits or the Law Enforcement Educational Program (LEEP), will be eligible to apply for financial assistance under this program. In such cases where an employee is receiving funds from another source which does not cover all the expenses, the City Tuition Reimbursement program will help defray the eligible costs over the amount of the funds received for approved courses up to the maximum amount allowed in this program.
- 2) To apply for the Tuition Reimbursement Program the following steps are to be taken:
 - a. The employee should obtain and complete, in triplicate, a Tuition Reimbursement Program Application prior to the beginning of the course.
 - b. All copies of the completed application should be submitted to the department head or his/her designee.
 - c. After the department head or his designee approves the course and institution, all copies of the application are submitted to the City Clerk for review and recommendation to the City Manager.
 - d. If the department head or his/her designee does not approve the application, he will discuss with the employee the reason(s) for disapproval.
 - e. After the City Manager reviews the application and approves it, one copy will be placed in the employee's personnel file; one copy will be returned to the department; and one copy will be given to the employee, along with a refund certificate. The employee shall keep a record of all expenditures on the refund certificate.
 - f. If the City Manager disapproves of the course or institution, the reason(s) will be discussed with the employee and the department head or his/her designee.
- 3) After satisfactory completion of the course, the employee may apply for reimbursement of eligible expenses using the following steps:
 - a. The employees shall complete a Tuition Reimbursement Refund Certificate, in triplicate, listing all eligible expenditures. Receipts for all expenditures

must be attached. The certificate shall be distributed to the employee, finance department and personnel file.

- b. The employee shall attach to the Refund Certificate an official record of the course grade or have an official of the institution verify, in writing, the course grade or successful completion of the course in which no letter grade is given.
 - c. The completed Refund Certificate shall be forwarded to the department head or his/her designee for his/her approval within thirty (30) calendar days of completion of the course or five (5) days prior to the end of the fiscal year, whichever comes first.
 - d. The department head or his/her designee shall forward the approved Refund Certificate to the City Manager for approval and the calculation of refund.
 - e. After verification of expenses and calculation of reimbursement due the employee, the City Manager will notify the Finance Department of approval for issuance of a check to the employee. The amount of reimbursement shall not exceed one thousand dollars (\$1000) in any fiscal year beginning July 1, of one year through June 30, of the following year.
- 4) Individual departments may elect to require employees who have books purchased under this program to turn them over to the department for the use of other employees.
- 5) The employee must remain employed with the City for three (3) years from the date of each tuition reimbursement. If an employee chooses to leave the City prior to the completion of this three (3) year period, he/she shall reimburse the City a pro rata share of any tuition reimbursement. A signed tuition reimbursement agreement will be executed prior to each reimbursement.

ARTICLE VII. HOLIDAYS AND LEAVES OF ABSENCE

Section 1. Policy

The policy of the City is to provide vacation leave, sick leave, and holiday leave to all regular full-time employees. Employees shall accrue leave proportionately with each payroll. An employee must be in "pay status" for a minimum of fifty percent (50%) of the pay period in order to accrue leave.

Section 2. Holidays

The City of Clinton observes the same holiday schedule as designated by the North Carolina Office of State Human Resources with twelve (12) paid holidays per year. Additionally, a floating holiday will be given to employees to allow for the observance of Juneteenth. The following are the designated holidays:

New Year's Day	Labor Day
Martin Luther King Jr.'s Birthday	Veteran's Day
Good Friday	Thanksgiving (Thursday & Friday)
Memorial Day	Christmas (three days)
Independence Day	

When any recognized holiday falls on a Saturday, the preceding Friday will be the designated holiday. When any recognized holiday falls on a Sunday, the following Monday will be the designated holiday.

Holidays are equivalent to eight (8) hours straight-time pay for all regular full-time employees regardless of their typical workweek schedule and are excluded from hours worked in calculating overtime. In order to receive a paid holiday, an employee must have worked the day before and the day after the holiday(s) or have been given approved leave. Fire and law enforcement employees whose work schedule differs from the standard Monday through Friday schedule, and who work greater than eight (8) hour shifts, will meet this requirement by working the "scheduled work shift" before and the "scheduled work shift" after the holiday or have been given approved leave.

Section 3. Holidays: Effect on Other Types of Leave

Recognized holidays which occur during a vacation, sick, or other leave period of any employee shall not be considered as vacation, sick, or other leave.

Section 4. Vacation Leave

Vacation/Personal leave is intended to be used for rest and relaxation, school appointments, and other personal needs. Vacation/Personal leave accrues from the first day of employment with the accrual rate determined by the length of service. Vacation

leave may also be used by employees who wish to observe religious holidays other than those granted by the City. Employees who wish to use leave for religious observances must request leave from their respective Department Directors. The Department Director will attempt to arrange the work schedule so that an employee may be granted vacation leave for the religious observance. Vacation leave for religious observance may be denied only when granting the leave would create an undue hardship for the City. Vacation leave shall be taken only with the prior approval of the employee's Department Director.

Section 5. Vacation Leave: Use by Probationary Employees

Employees serving a probationary period following initial employment may accumulate vacation leave but shall not be permitted to take vacation leave during the first six (6) months of employment unless approved by the Department Director.

Section 6. Vacation Leave: Accrual Rate

Each full-time employee of the City shall earn vacation leave at the following schedule, prorated by the average number of hours in the workweek (Section 15):

Years of Service	Vacation Days Accrued per Year	Vacation Hours Accrued per Month
0-4	15	10
5-9	17	11.3
10-14	19	12.7
15-19	23	15.3
20+	25	16.7

Section 7. Vacation Leave: Maximum Accumulation

Vacation leave may be accumulated without any applicable maximum until December 31 of each year. Effective the last payroll in the calendar year, any employee with more than two hundred forty (240) hours of accumulated vacation leave shall have the excess accumulation converted to sick leave so that only two hundred forty (240) hours are carried forward to January 1 of the next calendar year. Employees are not eligible to receive pay for excess vacation time not taken at this conversion time.

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

Section 8. Vacation Leave: Manner of Taking

Employees shall be granted the use of earned vacation leave upon request in advance at those times designated by the Department Director which will least obstruct normal operations of the City. Department Directors are responsible for insuring that approved vacation leave does not hinder the effectiveness of service delivery. Vacation leave may be taken in half-hour or full-hour increments. Failure to request or take vacation leave without prior approval may result in disciplinary action. Notwithstanding the procedures described in this Article, employees will use accrued comp time before using accrued vacation leave.

Section 9. Vacation Leave: Payment upon Separation

An employee who has successfully completed the probationary period will normally be paid for accumulated vacation leave upon separation not to exceed two hundred forty (240) hours, provided the employee provides a written to their supervisor. Additionally, the employee must work each scheduled workday during the two-week notice period unless provided an exception by the City Manager.

Any employee failing to give and work the two-week notice required by this section shall forfeit payment for accumulated leave. The notice and work requirement may be waived by the City Manager when deemed to be in the best interest of the City. Employees who are dismissed pursuant to Article IX, Section 5 of this Policy shall forfeit payment for accumulated annual leave.

Section 10. Vacation Leave: Payment upon Death

The estate of an employee who dies while employed by the City shall be entitled to payment of all the accumulated vacation leave credited to the employee's account not to exceed the maximum established in this Article.

Section 11. Sick Leave

Sick leave benefits are a privilege and not a right that any employee may demand. Sick leave may be granted to a probationary or regular employee absent from work for any of the following reasons: sickness, bodily injury, required physical or dental examinations or treatment, or exposure to a contagious disease, when continuing work might jeopardize the health of others. Sick leave is not intended to provide time off for recreation, personal reasons, or to extend vacations.

Sick leave may be used when an employee must care for a member of his or her immediate family who is ill. "Immediate family", for the purposes of this policy, shall be defined as spouse, child, parent or step-parent, brother, sister, grandparent, grandchild, son-in-law, daughter-in-law, mother-in-law or father-in-law of the employee, or guardian.

Sick leave runs concurrently with other types of leave including Family Medical Leave. Sick leave may be used during the initial seven (7) day waiting period before Workers' Compensation benefits begin.

Notification of the desire to take sick leave should be submitted to the employee's supervisor prior to the leave. If any employee is unable to report to work, the employee must notify their supervisor as soon as practical after the beginning of the regular scheduled workday. If the employee cannot call, the employee must have someone else call. If it is necessary for an employee to leave the work site because of illness, the employee must notify their supervisor before leaving. The employee is responsible for keeping their supervisor and/or Department Director informed on a regular basis of the status of the illness and when they expect to return to work. Department Directors may require that employees obtain a physician's statement describing the nature of illness and/or attesting to one's capacity to resume work duties. Failure to properly notify the supervisor and/or Department Director or provide necessary medical documentation may result in disciplinary action up to and including termination.

The City has the discretion to send an employee home on sick leave if he/she exhibits signs of a serious contagious illness or to send the employee to a physician to obtain a fitness for duty not before returning to work.

Section 12. Sick Leave: Accrual Rate and Accumulation

Sick leave shall accrue at a rate of one (1) day per month of service or twelve (12) days per year. Sick leave for regular full-time and probationary employees working other than the basic work schedule shall be pro-rated as described in this Article. Sick leave will be cumulative for an indefinite period of time and may be converted upon retirement for service credit consistent with the provisions of the North Carolina Local Government Employees' Retirement System.

All sick leave accumulated by an employee shall end and terminate without compensation when the employee resigns or is separated from the City, except as stated for employees retiring or terminated due to reduction in force.

Section 13. Transfer of Sick Leave from Previous Employer

The City will accept initial sick leave balances from a previous employer when the previous employer is covered by the State or Local Government Retirement System and the employee did not withdraw accumulated contributions from that employer when leaving employment. The sick leave will be treated as though it were earned with the City of Clinton. The sick leave amount must be certified by the previous employer, and it is the employee's responsibility to provide documentation from their previous employer within three (3) months of employment. Transferred sick leave will be credited to the employee upon completion of the probationary period.

Section 14. Sick Leave: Medical Certification

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

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

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

Section 15. Leave Prorated

Vacation and sick leave earned by full-time employees with fewer or greater hours than the basic work week shall be prorated and determined by the following formula:

- 1) The number of hours worked by such employees shall be divided by the number of hours in the basic workweek (usually 40 hours).
- 2) The proportion obtained in Step 1 shall be multiplied by the number of hours of leave earned annually by employees working the basic workweek.
- 3) The number of hours in step 2 divided by 12 shall be the number of hours of leave earned monthly by the employees concerned or divided by 26 shall be the number of hours of leave earned bi-weekly.

Section 16. Family and Medical Leave

The City of Clinton provides up to twelve (12) weeks of job-protected leave in accordance with the Family and Medical Leave Act of 1993 (FMLA). Under the Family and Medical Leave Act of 1993, eligible employees may be granted up to a total of twelve (12) weeks of unpaid leave per twelve (12) month period, as determined below, for any of the following reasons:

- 1) For incapacity due to pregnancy, prenatal medical care, or childbirth;
- 2) To care for the employee's child after birth, or placement for adoption or foster care;
- 3) To care for employee's spouse, son or daughter (underage of 18 or incapable of

self-care due to disability), or parent with a serious health condition, as defined by FMLA;

- 4) For a serious health condition, as defined by FMLA, that renders the employee unable to perform the job; or
- 5) For qualifying exigency arising out of the fact that the spouse, child, or parent of the employee is on active-duty or called to active-duty status in the National Guard or Reserves in support of a contingency operation.

Service member Family Leave

FMLA also includes a special leave entitlement that permits eligible employees to take up to twenty-six (26) weeks of leave to care for a covered service member during a single twelve (12) month period. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty and is receiving medical treatment, recuperating, or undergoing therapy for a serious injury or illness. In contrast to all other FMLA leaves, service member family leave may be taken only once and does not again become available with the start of a new FMLA year. An employee may not take more than a combined total of twenty-six (26) workweeks of leave in any year in which he or she uses service member family leave. The same eligibility, leave usage, and medical certification requirements apply to service member family leave as apply to all other FMLA leaves.

12-Month Period

For the purpose of determining available leave, the twelve (12) month period during which employees may be eligible for leave will be calculated on a rolling leave year looking backward twelve (12) months from the date an employee begins FMLA leave.

Medical Certification

The City may require medical certification to assess FMLA eligibility, as well as updates at reasonable intervals for continued certification. Employees are responsible for paying for the certification or re-certification. The City, at its own cost, may also require the employee to get a second or third opinion from a physician designated by the City. Failure to provide adequate information within fifteen (15) calendar days may result in denial of leave. The employee is expected to return to work at the end of the time frame stated in the medical certification, unless he/she has requested additional time in writing under the City's Leave of Absence policy. The City requires a physician's statement certifying an employee's ability to return to work prior to returning from medical leave. An employee who does not return to work within three (3) working days after their FMLA expires will be considered to have voluntarily resigned their position.

Spouse's Combined Leave

If a husband and wife both work for the City and each wish to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent with a serious health condition, the husband and wife together may only take a total of twelve (12) weeks

leave under FMLA. The request for the use of leave must be made in writing by the employee and approved by the Department Director or City Manager.

Benefits Continuation

The City will continue to provide health care benefits during the twelve (12) week FMLA leave entitlement, however, the employee will be responsible for paying his/her portion of the premium for dependent coverage if applicable. Other insurance and payroll deductions (i.e. dental, flex, etc.) are the responsibility of the employee and the employee must make those payments. Failure to pay premiums will result in loss of coverage. Under federal regulations, the City has the right to recover the insurance premiums if the employee fails to return to work for reasons other than the inability of the employee to work.

Reinstatement

Under most circumstances, employees who return to work immediately after the expiration of this leave and who do not exceed the amount of leave permitted under the FMLA, will be reinstated to either the same or equivalent job. If the twelve (12) or twenty-six (26) weeks of this leave are exhausted and the employee has not returned to work, the City will determine if the employee will be reinstated.

Section 17. Leave Without Pay

A regular full-time or probationary employee may be granted a leave of absence without pay for a period of up to six (6) months by the City Manager. The leave shall be used for reasons of personal disability after both sick and annual leave have been exhausted, sickness or disability of immediate family members, continuation of education, special work that will permit the City to benefit by the experience gained or the work performed, or for other reasons deemed justified by the City Manager.

A part-time or temporary employee will be granted leave without pay, if necessary, while on Workers' Compensation leave. The employee shall apply in writing to the supervisor for leave. The employee is obligated to return to duty within or at the end of the time determined appropriate by the City Manager. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay. If the employee decides not to return to work, the supervisor shall be notified immediately. Failure to report at the expiration of a leave of absence, unless an extension has been requested, shall be considered a resignation.

The employee may continue to participate in the City's group insurance plans, provided that the employee pays the individual premium during the time the employee is on leave without pay when granted educational or special work approved by the City.

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

When an employee is on leave under FMLA (maximum of twelve (12) weeks in a year), the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. If an employee chooses not to return to work for reasons other than a continued serious health condition, the City will require the reimbursement of the amount paid for the employee's health insurance premium during the FMLA leave period. Other insurance and payroll deductions are the responsibility of the employee, and the employee must make those payments for continued coverage of that benefit.

An employee shall retain all unused annual and sick leave while on Leave Without Pay. An employee ceases to earn leave credits on the date leave without pay begins. The employee may continue to be eligible for benefits under the City's group insurance plans at his or her own expense, subject to any regulation adopted by the City Council and the regulations of the insurance carrier.

Section 19. Workers' Compensation Leave

Under the North Carolina Workers' Compensation Act, employees may be compensated for absence from work due to injury or illness covered by the Act, subject to the following leave provisions:

- 1) There is a mandatory seven (7) calendar day waiting period before Workers' Compensation salary benefits begin. For this initial seven (7) day waiting period, employees may use sick leave, vacation leave, compensatory time, or leave without pay.
- 2) Beginning on the 8th calendar day following the injury or illness, employees who have not returned to work shall be placed in a Workers' Compensation Leave Without Pay status. Accrued leave cannot be used while in Leave Without Pay status.
- 3) Employees receiving Workers' Compensation benefits will not accrue vacation leave, sick leave or paid holidays and their local government retirement and 401k benefits are not paid during this period. Employees will retain all accumulated sick and vacation leave.
- 4) An employee on Workers' Compensation leave may be permitted to continue to be eligible for benefits under the City's group health insurance plan during the twelve (12) week FMLA period. Employees may elect to continue health benefits by electing COBRA.
- 5) Upon reinstatement, an employee's salary will be computed on the basis of the

last salary plus any salary increase to which the employee would have been entitled during the absence covered by Workers' Compensation benefits.

- 6) After returning to work, employees shall be required to use sick or vacation leave for any additional absences for doctor visits, physical therapy, and other required medical care except where any full or partial workday absence may be eligible for Workers' Compensation payment.
- 7) Any period of leave for a Workers' Compensation injury that qualifies as a "serious health condition" under the Family and Medical Leave Act (FMLA), will run concurrently with FMLA leave.
- 8) The City of Clinton's personnel policies shall continue to apply to an employee on Workers' Compensation leave in the same manner as they would apply to an employee who continues to work or is absent while on some other form of leave.
- 9) An employee is prohibited from moonlighting or performing other outside work during workers' compensation leave.
- 10) The ability to return to work will be assessed individually and on a case-by-case basis. The City will engage in an interactive process with the employee to carefully analyze whether accommodations requested are reasonable while not creating an undue hardship to the City. If business necessity requires the City to fill the position prior to the employee's return to work, the employee will receive priority consideration for qualified job openings for six (6) months after their medical release to work.
- 11) Before an employee may return to work from a Workers' Compensation injury at full or light duty, the employee must provide a physician's note or Fitness for Duty certification to his/her supervisor indicating that he/she is released and capable of resuming duties, and what, if any restrictions are in place.

Section 20. Return to Work

The City of Clinton has an established light duty return-to-work policy. A light duty assignment is defined as a temporary work assignment within the employee's physical abilities, knowledge and skills which allows an employee to return to work performing different duties until the employee is able to return to his/her original position following an on-the-job injury. The light duty assignment temporarily addresses the restrictions placed on the employee by the treating physician. For work to be considered suitable light duty employment, the following conditions must be met:

- 1) The employee must meet the required qualifications for the light duty assignment,
- 2) The work must be a meaningful and productive part of the department's operations,

- 3) The work must conform to the medical restrictions set by the medical care provider, and,
- 4) The light duty assignment and/or modified work schedule should not exceed ninety (90) calendar days.

If the employee's regular department is unable to meet the employee's need for light duty, the employee's department is responsible for payment of the employee's salary and benefits while performing a light duty assignment in a different department that has been able to meet the employee's needs. The employee placed in a light duty assignment will be paid a salary that is equivalent to the salary of other employees holding the same position. The City cannot guarantee placement and is under no obligation to offer or create any specific position for the purposes of offering placement. Employees in a light duty assignment are expected to comply with City policies and performance expectations as if they were working in their regular, full-time position.

An employee may choose to accept or refuse the Return to Work (modified duty) job offer. However, an employee who refuses a Light Duty offer is subject to termination. Rejection of the job offer might also result in cancellation of income benefits under Workers' Compensation Insurance.

If an employee is unable to return to work at full duty after ninety (90) calendar days, he/she may request a continuation of light duty. Approval beyond ninety (90) calendar days will be based upon the individual assessment of the employee's ability to return to full duty within the immediate future as well as business necessity. An employee requesting an extension beyond ninety (90) calendar days must submit updated information from the treating physician. The City reserves the right to consider a separation of employment for any employee who is out on Workers' Compensation leave for an extended period of time thus causing hardship for the department. The City of Clinton will engage in the interactive process to determine whether a reasonable accommodation is possible for a qualified individual with a disability to enable them to perform the essential functions of the job, unless doing so causes an undue hardship to the City or a direct threat to employees or workplace safety.

Section 21. Military Leave

In accordance with federal and state laws, the City provides military leave to employees who are members of a United States Armed Forces Reserve organization or National Guard for absences to perform military duty, whether voluntary or involuntary. Absences to perform any military duty (including active-duty, active-duty training, inactive-duty training such as scheduled drills and summer camp, full-time National Guard federal duty, fitness-for-duty examination, and funeral honors duty) are covered by this policy, unless the employee reaches the five (5) year maximum of military leave as established by the Uniformed Services Employment and Reemployment Rights Act (USERRA). This policy

provides military leave to regular City employees unless their employment is for a brief, non-recurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

Employees should submit a request for military leave to the supervisor or Department Director as soon in advance of the military duty as possible. The request should be in writing and should be accompanied by a copy of the military orders. Employees must report back to work as soon after military duty as possible, consistent with federal and state laws. If the reason for the employee's delay is not related to military duties, the employee is subject to the personnel policies and practices normally applied to employees with unexcused absences.

Employees may choose whether to use earned compensatory time, accrued vacation leave (leave with pay), leave without pay, or some combination thereof for these absences, and the provisions of that leave shall apply. Upon exhausting all other paid leave, employees may request to use sick leave, if approved by the City Manager. Regular employees choosing to use military leave may claim up to ten (10) days of differential pay per calendar year provided the days are recorded as military leave and the military basic pay is less than the employee's regular City pay. To claim differential pay, the employee must submit a copy of his/her military orders, pay vouchers, Leave and Earnings Statement and/or other appropriate documentation evidencing performance and compensation pertinent to the military duty.

During the period of military leave, regular employees may continue health and dental insurance coverage for up to eighteen (18) months under COBRA coverage, provided they continue to pay their share of the premiums. As with any other unpaid leave, employees do not accrue vacation leave or sick leave during the period of leave without pay. However, the balance of such accruals on the date of commencement of the military leave will remain intact for the employee's return to work.

Section 22. Reinstatement Following Military Service

Employees who are separated or discharged from military service under honorable conditions and who apply for reinstatement within the established time limits are reinstated to the same position or one of like status, seniority, and pay with the City. If, during military service, an employee is disabled to the extent that the duties of the original position cannot be performed, the employee is reinstated to a position with duties compatible with the disability, if available. The employee's salary upon reinstatement is based on the salary rate just prior to leave, plus any general salary increase(s) implemented while on leave. The addition of a performance salary increase may be considered. Employees who are eligible for military leave have all job rights specified by the Uniformed Services Employment and Reemployment Rights Act (USERRA).

An employee's entitlement to the provisions of this section terminates upon the occurrence of any of the following events:

- 1) Such employee is separated from uniformed service with dishonorable or bad conduct discharge;
- 2) Such employee is separated from uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the Secretary concerned;
- 3) The City's circumstances have so changed as to make such reemployment impossible or unreasonable; or
- 4) Such employee gives clear written notice he or she has no intention of returning to work.

Section 23. Civil Leave

A City employee called for jury duty or subpoenaed for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the City any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty. Employees required to be in court for their own case, defendant or plaintiff, must use vacation leave or compensatory time.

Section 24. Shared Leave

It is the policy of the City to provide an opportunity for employees to share and/or receive leave during periods of prolonged absences from work due to a medical condition, resulting in exhaustion of all leave.

Eligibility

Only permanent full-time employees who have exhausted all paid leave and compensatory time are eligible to receive donated leave.

Definitions

Medical Condition – a condition of an employee or immediate family member, validated by the attending physician's medical certification form, which requires the employee to be absent from work for more than one pay period or for a series of absences which will result in the exhaustion of all earned leave. The certification from the attending physician should list the condition, prognosis, and estimated time for treatment or recovery.

Immediate Family Member – employee’s spouse, children (including step-children), grandchildren, parents, and dependents living in the employee’s household.

Guidelines

To receive shared leave, recipient employees:

- 1) Must have been employed full-time for a minimum of six (6) months.
- 2) Must have exhausted all paid leave (sick, annual, compensatory time and the special advance provision outlined in Article VII, Section 16 of the Personnel Policy) before requesting and using shared leave.
- 3) Must have a serious medical condition as defined in this policy and, in all cases, submit a physician’s medical certification form of diagnosis, prognosis and estimated duration of medical leave necessary.
- 4) Must have a reasonable leave record.
- 5) Cannot simultaneously receive Worker’s Compensation
- 6) Must be ineligible for disability retirement.

To donate shared leave, donor employees:

- 1) Any eligible employee may donate annual or sick leave to any approved employee.
- 2) May only donate a maximum of eighty (80) hours of annual or sick leave in a calendar year.
- 3) May not reduce his or her annual or sick leave balance below one-half ($\frac{1}{2}$) of what the donor can earn in one (1) year.
- 4) Must donate a minimum of four (4) hours.
- 5) All donations must be in writing, designate the employee receiving the donation, and signed by the donor.
- 6) Donors and donation amounts shall remain confidential.
- 7) All leave donations must be to a designated employee approved by the City Manager and may not be made to a pool or bank.

Employees wishing to request shared leave must submit the completed Shared Leave Recipient Form with the physician's medical certification form and an authorization for the release of medical information to the Human Resources Director. The Department Director confirms no abuse of leave, approves the requests, and forwards the application to the Human Resources Director. The Human Resources Director confirms the medical certification with the attending physician and forwards the request to the City Manager for approval or disapproval.

After City Manager's approval, the Human Resources Director sends out information identifying the employee, the circumstances, and a request for shared leave donors.

If the employee is unable to make the request for leave, a third party acting on the employee's behalf, may make the application.

The Privacy Act makes medical information confidential. When disclosing information on an approved recipient, only a statement that the recipient or family member has a prolonged illness will be made.

Length of Leave – The City Manager will determine the length of the leave. However, shared leave may only be used during a maximum six (6) months period for any single injury or illness. Under no circumstances may the use of shared leave exceed the recipient's period of treatment and recovery.

Earning Leave While Using Shared Leave – Annual leave, sick leave, and holidays shall continue to be earned/paid while using shared leave. However, earned leave accrued during this period must be used by the employee prior to continued use of shared leave.

Unused Leave – At the expiration of the period approved for shared leave as determined by the City Manager, any donated leave must be returned on a pro rata basis to the donors.

Abuse – The City Manager and Department Directors are authorized to take all necessary steps to prevent abuse of this policy, including dispatching a nurse or physician to verify the medical condition or requiring a medical examination.

Employees or family members may not solicit leave directly from other employees under any circumstances. In addition, solicitation by supervisors or Department Directors on behalf of other employees is prohibited and shall be grounds for disciplinary action.

The donating employee may not receive compensation in any form for the donation of leave. Acceptance of remuneration for donated leave shall result in dismissal.

Section 25. Funeral Leave

Up to three (3) calendar days paid leave is granted each calendar year for making funeral arrangements, traveling to, and attending the funerals of Relatives including spouse, parent(s), guardian, child (ren), sister(s), brother(s), grandparents, grandchildren, in addition to the various combinations of half, step, in-law, and adopted relationships that can be derived from the above mentioned. Funeral leave does not accumulate from year to year. Funeral leave must be approved prior to use. Any additional time off may be charged as vacation/personal leave or compensatory time, if available. Extra days are granted based on the needs of the employee and the department.

ARTICLE VIII. SEPARATION AND REINSTATEMENT

Section 1. Types of Separations

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

Section 2. Resignation

An employee may resign by submitting the reasons for resignation and the effective date in writing to the immediate supervisor as far in advance as possible. In all instances, the minimum notice requirement is two (2) weeks (14 calendar days). Failure to provide minimum notice shall result in forfeit of payment for accumulated annual leave unless the notice is waived upon recommendation of the department head and approval by the City Manager.

Three (3) consecutive days of absence without contacting the immediate supervisor or department head is considered to be a voluntary resignation. Sick leave will only be approved during the final two (2) weeks of a notice with a physician's certification or comparable documentation. In this event, the employee forfeits the privilege of compensation for accumulated annual leave.

Section 3. Reduction in Force

Reduction-in-Force is defined as a separation from employment because of an organizational change, lack of work, lack of funds or other reasons that reflects no discredit upon the employee.

In the event that a reduction in force becomes necessary, consideration shall be given to the quality of each employee's performance, organizational needs, and seniority in determining those employees to be retained. Employees, except temporary, who are separated because of a reduction in force shall be given at least two (2) weeks notice of the anticipated action. No regular employee shall be separated because of a reduction in force while there are temporary or probationary employees serving in the same class in the department, unless the regular employee is not willing to transfer to the position held by the temporary or probationary employee.

The City is committed to make every reasonable effort to retain an employee subject to reduction in force through transfer or to make the necessary work force reduction through normal attrition.

Section 4. Disability

An employee who cannot perform the required duties because of a physical or mental impairment may be separated for disability. Action may be initiated by the employee or the City. In cases initiated by the employee, such action must be accompanied by medical evidence acceptable to the City Manager. The City may require an examination, at the City's expense, performed by a physician of the City's choice.

Section 5. Voluntary Retirement

An employee who meets the conditions set forth under the provision of the North Carolina Local Government Employee's Retirement System may elect to retire and receive all benefits earned under the retirement plan.

Section 6. Death

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

Section 7. Dismissal

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

Section 8. Reinstatement

Reinstatement is an action to reemploy former employees who either left the City in good standing or who were reduced in force within the last two (2) years prior to reinstatement.

An employee who is separated because of reduction in force may be reinstated within two (2) years of the date of separation, upon recommendation of the department head, and upon approval of the City Manager. An employee who is reinstated in this manner shall be re-credited with his or her previously accrued sick leave.

Section 9. Rehiring

An employee who resigns while in good standing may be rehired with the approval of the City Manager, and may be regarded as a new employee, subject to all of the provisions of rules and regulations of this Policy. An employee in good standing who is separated due to a reduction in force shall be given the first opportunity to be rehired in the same or a similar position.

Section 10. Return of Property

Upon separation from positions in the service of the City all employees shall be required to return any/all City property to the Human Resource Director. In the event that said property is not returned, the separated employee will be responsible for full

reimbursement to the City within thirty (30) days for the unreturned items.

ARTICLE IX. UNSATISFACTORY JOB PERFORMANCE AND/OR DETRIMENTAL PERSONAL CONDUCT

Section 1. Disciplinary Action for Unsatisfactory Job Performance

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or dismissal must be approved by the department head and City Manager prior to giving final notice to the employee.

Section 2. Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job which are not performed as required to meet the standards set by the department head. Examples of unsatisfactory job performance include, but are not limited to, the following:

- 1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- 2) Careless, negligent or improper use of City property or equipment;
- 3) Unauthorized or excessive use of personal mobile communication devices while at work;
- 4) Physical or mental incapacity to perform duties after reasonable accommodation;
- 5) Discourteous treatment of the public or other employees;
- 6) Absence without approved leave;
- 7) Repeated improper use of leave privileges;
- 8) Habitual pattern of failure to report for duty at the assigned time and place;
- 9) Failure to complete work within time frames established in work plan or work standards; or
- 10) Failure to meet work standards over a period of time.

Section 3. Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance

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

- 1) A final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
- 2) If performance does not improve, a written recommendation should be sent to the department head and City Manager for disciplinary action such as suspension, demotion, or dismissal. Disciplinary suspensions should not generally exceed one (1) work week (usually 40 hours).

Section 4. Disciplinary Action for Detrimental Personal Conduct

With the approval of the department head and City Manager, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to City service in order to:

- 1) Avoid undue disruption of work;
- 2) Protect the safety of persons or property; or
- 3) Address other serious matters.

Disciplinary suspension should not normally exceed one (1) work week (usually 40 hours).

Section 5. Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the City may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of any government may be or have been

violated. Examples of detrimental personal conduct include, but are not limited to, the following:

- 1) Fraud or theft;
- 2) Conviction of a felony and/or Conviction of a criminal or civil offense which would adversely affect the performance of duties, or the entry of "no contest" to either;
- 3) Failure to report any legal action against an employee to their immediate supervisor within two (2) working days;
- 4) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- 5) Willful misuse or gross negligence in the handling of City funds;
- 6) Willful or wanton damage or destruction to property;
- 7) Willful or wanton acts that endanger the lives and property of others;
- 8) Possession of unauthorized firearms or other lethal weapons on the job;
- 9) Brutality in the performance of duties;
- 10) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- 11) Engaging in incompatible employment or serving a conflicting interest;
- 12) Request or acceptance of gifts in exchange for favors or influence;
- 13) Engaging in political activity prohibited by this policy;
- 14) Harassment of an employee or the public with threatening or obscene language and/or gestures;
- 15) Harassment of employee(s) and/or the public on the basis of sex, race, or any other protected class status; or
- 16) Conduct unbecoming of an employee that is detrimental to the reputation of the City;
- 17) Stated refusal to perform assigned duties or flagrant violation of work rules and regulations.

- 18) Any one-party audio or video taping employees or citizens at any time without notifying parties affected before the taping is initiated. This does not apply to criminal or internal investigations being conducted by the Police and Fire Department.

Section 6. Pre-Disciplinary-Dismissal Conference.

Before disciplinary and/or dismissal action is taken, whether for failure in personal conduct or failure in performance of duties, the City Manager, Assistant City Manager or a department head will conduct a pre-disciplinary-dismissal conference. The employee shall be allowed at least ten (10) calendar days to prepare a response, oral and/or written, to respond to the charges prior to the conference. At this conference, the employee may present any response to the proposed action to the City Manager, Assistant City Manager and department head. The City Manager, Assistant City Manager and department head will consider the employee's response, if any, to the proposed discipline/dismissal, and will, within three (3) working days following the conference, notify the employee in writing of the final decision. If the employee is dismissed, the notice shall contain a statement of the reasons for the action and the employee's appeal rights under the City's grievance procedure. An attorney will not be allowed at the conference.

Section 7. Non-Disciplinary Suspension

During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, when suspension would, in the opinion of the department head, be in the best interest of the City, the department head may suspend the employee for part or all of the proceedings as a non-disciplinary action. In such cases, the department head may:

- 1) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or
- 2) Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

The City Manager will be notified of the actions in a timely manner.

If the employee is reinstated following the suspension such employee shall not lose any compensation or benefits to which otherwise the employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued annual and sick leave shall be maintained

during the period of suspension.

Section 8. Substance Abuse Policy

City of Clinton Substance Abuse Policy

Policy Overview:

The City of Clinton has a responsibility to all employees to provide a workplace that is free of controlled substances and alcohol as well as a responsibility to the public to insure that its safety and trust in the City of Clinton is upheld. Therefore, the City of Clinton has adopted a policy that prohibits the following behaviors by employees:

- 1) The use or possession of alcohol or any controlled substance, including the abuse of medications, while on work time or work premises, or in city vehicles.
- 2) The sale, distribution, or provision of alcohol or any controlled substance while on work time or work premises, or in city vehicles.
- 3) Reporting to work or working while intoxicated or otherwise impaired.

This is a zero tolerance policy due to the magnitude of potential adverse consequences of controlled substances abuse and alcohol misuse which can range from personal injury or equipment damage to death of co-workers or the public. Any violations of this policy will subject the employee to disciplinary action, up to and including dismissal.

Purpose:

The purpose of the drug and alcohol policy is to:

- 1) Identify all requirements and actions necessary to eliminate controlled substance abuse and alcohol misuse in the City of Clinton.
- 2) Ensure full compliance with federal requirements for establishing a drug-free workplace.
- 3) Identify when, and under what conditions, City employees are subject to drug and alcohol testing.

Scope/Coverage:

All employees

All permanent employees (full-time and part-time; trainees; and probationary) of the City

of Clinton are subject to the following types of tests:

- 1) Reasonable suspicion
- 2) Post-accident
- 3) Pre-employment
- 4) Return to duty
- 5) Follow-up

Compliance with Law

- 1) Information regarding the testing and referral of employees and applicants under the policy will be treated as confidential in accordance with the requirements of North Carolina laws governing the privacy of employee personnel records.
- 2) Searches and seizures are to be conducted in a legal manner. The City of Clinton reserves the right to conduct searches or inspections of property assigned to an employee whenever a department head or his or her designee determines that the search is reasonable under all circumstances.

Definitions

Alcohol Test – A test for the presence of alcohol in the body as determined through the use of a breath alcohol test, evidential breathalyzer test, or blood screening.

Approved Laboratory – A laboratory approved and certified by the North Carolina Department of Human Resources or the U. S. Department of Health and Human Services (DHHS), the College of American Pathology, the American Association for Clinical Chemistry, or the equivalent to conduct drug testing. Only laboratories certified by DHHS will be used for tests required by Federal Transit Administration (FTA) and Federal Highway Administration (FHWA).

Canceled Test – With respect to the results of a drug test, means a test result in which the medical review officer finds insufficient information or inconsistent procedures with which to make a determination.

Confirmation Test for Alcohol – A second test, following a screening test with a result of 0.02 or greater that provides quantitative data of alcohol concentration. Confirmation test for controlled substances means a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screen test and that uses a different technique and chemical principle from that of the screen test in order to

ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for the five SAMHSA drugs.

Conviction – A finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of federal or state criminal drug statutes.

Criminal Drug Statute – A criminal statute relating to the manufacture, distribution, dispensation, use or possession of any drug.

Drug – A controlled substance as listed in Schedules I through V of Section 202 of the Controlled Substances Act (21 USC 812) or Chapter 90, Section 87(5) of the North Carolina General Statutes or a metabolite thereof.

Drug Test and Drug Screening – A test, including providing the necessary sample of body fluid by the employee to be tested, for the presence of any of the following drugs or drug metabolites in the urine or blood of an employee:

- 1) Amphetamines
- 2) Barbiturates
- 3) Benzodiazepines
- 4) Cannabinoids
- 5) Cocaine
- 6) Methaqualone
- 7) Opiates
- 8) Phencyclidine
- 9) Propoxyphene
- 10) Other drugs that may be determined to reduce work efficiency

Medical Review Officer (MRO) – A North Carolina-licensed physician with specific training in the area of substance abuse. The medical review officer not only has knowledge of substance-abuse disorders, but also has been trained to interpret and evaluate laboratory test results in conjunction with an employee's medical history. The medical review officer verifies a positive drug test result by reviewing a laboratory report and an employee's unique medical history to determine whether the result was caused by the use of prohibited drugs or by an employee's medical condition.

Negative – With respect to the results of a drug test, means a test result that does not show presence of drugs at a level specified to be a positive test.

Negative – With respect to the results of an alcohol test, means a test that indicates a breath alcohol concentration of less than 0.02.

On Call – Being subject to a call to report immediately to work for the City of Clinton.

On Duty – When an employee is at the workplace, performing job duties, on call, or during any other period of time for which he or she is entitled to receive pay from the City of Clinton.

Other Substance – Any substance that has the potential to impair appreciably the mental or physical function of a person who does not have an unusual or extraordinary reaction to such substance.

Pass a Drug Test – The result of a drug test is negative. The test either:

- 1) Showed no evidence or insufficient evidence of a prohibited drug or drug metabolite; or
- 2) Showed evidence of a prohibited drug or drug metabolite but there was a legitimate medical explanation for the result as determined by a certified medical review officer.

Pass an Alcohol Test – is a negative alcohol test. The test showed no evidence or insufficient evidence of a prohibited level of alcohol.

Positive – With respect to the results of a drug test, means a laboratory finding of the presence of a drug or a drug metabolite in the urine or blood of an employee at the levels identified by the Substance Abuse and Mental Health Services Administration (SAMHSA), or for drugs not subject to SAMHSA guidelines, at the levels identified by the City of Clinton; all positive tests will be confirmed using a different technology than was used for the first test, such as the gas chromatography/mass spectrometry (GC/MS) process.

Positive – With respect to the results of an alcohol test, means the presence of alcohol in an employee's system at the 0.04 level or greater.

Pre-placement Testing – Testing conducted on a current city employee prior to his or her being promoted, transferred, or demoted into a safety-sensitive position.

Qualified Negative – With respect to the results of a drug test, means a test in which the lab result is consistent with legal drug use.

Random Testing – Testing conducted on an employee assigned to a safety-sensitive

position and is chosen by a method that provides an equal probability that any employee from a group of employees will be selected.

Reasonable Suspicion – Exists when a supervisor, utilizing the guidelines for determining “Reasonable Suspicion” as shown in attachment “B”, to substantiate specific contemporaneous, articulable observations concerning appearance, behavior, speech, or body odor or other physical indicators of probable drug or alcohol use. By way of example and not limitation, any one or a combination of the following may constitute reasonable suspicion:

- 1) Slurred speech;
- 2) The odor of marijuana or alcohol about the person;
- 3) Inability to walk a straight line;
- 4) An accident resulting in damage to property or personal injury;
- 5) Physical altercation;
- 6) Verbal altercation;
- 7) Behavior that is so unusual that it warrants summoning a supervisor or anyone else in authority (i.e., confusion, disorientation, lack of coordination, marked personality changes, irrational behavior);
- 8) Possession of drug;
- 9) Verifiable information obtained from other employees based on their observations; and/or
- 10) Arrests, citations, and deferred prosecutions associated with drugs or alcohol.

Refuse to Submit – An employee 1) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement for breath testing, 2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after he or she has received notice of the requirement for urine testing, 3) refuses to sign the breath alcohol confirmation test certification, or 4) engages in conduct that clearly obstructs the testing process. An employee subject to the post-accident testing requirements of the DOT who unnecessarily leaves the scene of an accident before a required test is administered or fails to remain readily available for testing may be deemed to have refused to submit to testing.

Safety-Sensitive Position – A position will be designated safety sensitive only where the City of Clinton has a compelling need, on the basis of safety concerns, to ascertain on-

the-job impairment on the part of employees who hold the position. Such a compelling need may arise where the duties of a position create, or are accompanied by, such a great risk of injury to other persons or to property of such magnitude that even a momentary lapse of attention, judgment, or dexterity could have disastrous consequences. Examples of these positions include:

- 1) Positions (full or part-time) requiring the use of weapons (or potential use of weapons) or the operation of vehicles, machinery, or equipment as a primary task (does not include routine office equipment).
- 2) Positions requiring the handling of hazardous materials, the mishandling of which may place the employee, fellow employees, or the general public at risk of serious injury, or the nature of which would create a security risk in the workplace.
- 3) Positions where the incumbent's mental fitness is required to prevent immediate injury to the public or to fellow employees, or to himself or herself.
- 4) Positions working with youth/children and/or to required to drive clients.
- 5) Other positions as determined on a case-by-case basis.

The following includes activities defined as safety sensitive by the Federal Highway Administration or Federal Transit Administration portions of the DOT guidelines:

- 1) Driving.
- 2) Inspecting, servicing, or conditioning any commercial motor vehicle.
- 3) Waiting to be dispatched at a carrier or shipper plant, terminal, facility, or other public property.
- 4) Performing all other functions in or upon any commercial motor vehicle except resting in a sleeper berth.
- 5) Loading or unloading a vehicle, supervising or assisting in the loading or unloading of a vehicle, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded.
- 6) Performing driver requirements relating to accidents.
- 7) Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.
- 8) Operating a revenue service vehicle, including when not in revenue service.

- 9) Operating a non-revenue service vehicle when required to be operated by a holder of a commercial driver's license.
- 10) Controlling dispatch or movement of a revenue service vehicle.
- 11) Maintaining a revenue service vehicle or equipment used in revenue service.
- 12) Carrying a firearm for security reasons.

Determination as to which positions is safety sensitive will be based on DOT guidelines or the recommendation of the department head and approval by the human resource director.

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

Supervisor – In general, means any employee who has the authority to direct the job activities of one or more other employees. With respect to a particular employee, the term means such employee's immediate supervisor and all persons having indirect supervisory authority over such employee.

Unannounced Follow-Up Testing – Testing conducted on an employee on a periodic, unannounced basis, following his or her return to work from an approved drug or alcohol rehabilitation program.

Workplace – The location or facility where an employee may be expected to perform any task related to the requirements of his or her job. This includes break rooms and restrooms, outdoor worksites, the City of Clinton or personal vehicles (while personal vehicle is being used for the City of Clinton business), computer work stations, conference rooms, hallways, private offices, open/partitioned work areas, public contact/customer service/medical services areas, and parking lots.

Reasonable Suspicion Testing (All Employees)

Reasonable suspicion testing is performed when supervisors, department heads, or City officials have reasonable suspicion to believe that an employee's behavior or appearance may indicate he/she may be under the influence of or has recently used alcohol or controlled substances. The determination to test for reasonable suspicion must be based on the following:

- 1) First hand observations seen or heard by supervisors or department heads;

- 2) Specific, clearly stated observations concerning the appearance, behavior, speech or body odor of the employee (See Attachment B);
- 3) Observations made just before, during or just after the performance of job duties.

Supervisors, department heads, or City officials have the right and responsibility to require an employee to submit to controlled substances or alcohol testing when reasonable suspicion is present.

Reasonable suspicion alcohol testing should be done within two (2) hours of the observed behavior or appearance. If a test cannot be done within eight (8) hours, it should not be done. A reasonable suspicion controlled substance test should be done no later than thirty-two (32) hours from the observed behavior or appearance. If a reasonable suspicion test cannot be conducted within the specified time frame, the reasons for the failure to test should be documented by the supervisor and given to the Human Resource Director. Further observation is required.

An employee who is asked to submit to reasonable suspicion testing will be driven to the testing site and will be placed on a non-disciplinary suspension pending the test results. An employee who refuses to submit to reasonable suspicion testing or avoids meeting the time requirements identified will be subject to dismissal.

Post Accident Testing (All Employees)

Post-accident testing is conducted following any at-fault accident involving an employee if any one of the following conditions is met:

- 1) Estimated property damage of five hundred dollars (\$500.00) or more.
- 2) An individual suffers bodily injury and receives medical treatment away from the scene.
- 3) When the driver is issued a citation by law enforcement officers or is at fault.
- 4) A workers compensation report must be filed.

Post-accident alcohol testing should be done within two (2) hours of the accident. If the test cannot be performed within eight (8) hours, it should not be done. Post-accident

controlled substances testing must be performed within thirty-two (32) hours of the accident, or it should not be done. If the tests cannot be performed in the specified time frame, the reasons for the failure to test should be documented by the supervisor and given to the Human Resource Director.

As soon as practical after an accident, the employee will be driven to the specimen collection location. Transportation will be provided. An employee who is required to

submit to post-accident controlled substances or alcohol testing will be placed on administrative leave with pay pending test results.

An employee who refuses to be tested or avoids meeting the specified time limits will be subject to dismissal. If unable to meet specified timelines due to circumstances beyond the employee's control, such circumstances must be documented and validated to the Human Resource Director and the City Manager.

Note: The Department Head and/or supervisor shall have the authority to determine whether or not an employee is at-fault for the accident if it is not clearly evident.

(Adopted 2010, September 7)

Pre-employment Testing

After an offer of permanent employment has been made to the final candidate, the Human Resource Director directs the applicant to the drug testing collection site and receives notification of the test result. Applicants are not eligible to begin work until the Human Resource Director receives the negative test result. If someone is already employed by the City, he/she is required to submit to a pre-employment test only if he/she is moving into a safety sensitive position from a position that is not safety sensitive.

Return-to-Duty and Follow-Up Testing

Return-to-duty and follow-up testing is required for any employee who has violated this policy and is returning to work on the recommendation of the substance abuse professional. Return-to-duty testing must be conducted prior to the employee returning to work. Follow-up testing is required for any employee who has violated this policy and has successfully completed a return-to-duty test. Employees who fall into either one of these situations will be subject to at least six (6) unannounced follow-up tests within the first year back on the job. Follow-up testing can be performed for up to five (5) years after return to work. Any employee who tests positive on a return to duty or follow-up test shall be dismissed.

Controlled Substances Testing Information

Alcohol Tests

A breath alcohol level of 0.04 or higher on a breathalyzer administered by a certified Breath Alcohol Technician is considered a positive alcohol test. A positive test result while on work time or work premises, or in city vehicles, will result in disciplinary action up to and including dismissal.

A breath alcohol level of 0.02 or greater requires a confirmation test. Confirmation tests are completed no sooner than fifteen (15) minutes after the initial screening test, but no

later than twenty (20) minutes of that test. If the screening and confirmation tests are not the same, the confirmation test is deemed to be the final result. If the BAT reading is between 0.02 and 0.039 the employee must be removed from the work place for a twenty four (24) hour period (8 hours of work time).

Drug Tests

All drug tests require an employee to provide a urine specimen for urinalysis at an approved medical facility. The collection, analysis and reporting processes are strictly controlled to ensure accuracy of test results and maximum confidentiality.

Every urine specimen undergoes an initial screen followed by a confirmation test for all positive screen results. Any confirmed positive test result is reviewed and interpreted by a Medical Review Officer (MRO). The MRO will contact the employee to ensure no factors exist that may have influenced the outcome of the testing process prior to transmission of the results to the City. The MRO is responsible for confirming test results. Test results will be provided to the Human Resource Director and test results will be revealed to only those persons authorized as having an established need for the information. A confirmed positive test result will subject the employee to disciplinary action, up to and including dismissal. The employee cannot return to job duties until he/she has been evaluated by a substance abuse professional, completed the treatment recommendations, and produced a negative return to duty test.

The employee will be notified in writing of a confirmed positive test result.

All cost of testing, with the exception of return to work or follow-up testing, will be the responsibility of the City of Clinton. Cost of Return to work or follow-up testing will be the responsibility of the employee

Refusal to Test

An employee's refusal to consent to testing as authorized under this policy will result in immediate termination.

Impairment or other behavior off the job

Any employee whose job duties require operation of a motorized vehicle, hazardous machinery or use of hazardous materials who is CHARGED with a controlled substances or alcohol related offense (including DWI) must notify the appropriate supervisor or department head within one (1) work day of arrest, arraignment or indictment. Any employee who is required to have a driver's license for the performance of their job duties will be placed in disciplinary suspension without pay status until their license is returned after the automatic ten (10) day revocation. An employee's failure to notify his/her supervisor or department head may result in disciplinary action, up to and including

dismissal. Under no circumstances will an employee operate a City vehicle or equipment without a valid operator's license.

Any employee CONVICTED of a controlled substances or alcohol related offense must notify the appropriate supervisor or department head within one (1) work day of conviction. Failure to notify management may result in disciplinary action, up to and including dismissal. If an employee's job functions require an operator's license and the employee's operator's license is revoked, the employee shall be subject to disciplinary action, up to and including dismissal. Failure to notify the supervisor or department head of any revocation shall result in disciplinary action, up to and including dismissal.

Any employee convicted of an off the job controlled substances or alcohol related offense which could directly, or indirectly, affect his/her credibility or ability to carry out effectively the duties and responsibilities of his/her position with the City of Clinton , shall be subject to review by the City Manager and possible disciplinary action, up to and including dismissal.

Voluntary Referrals for Assistance

An employee who has a drug or alcohol problem is encouraged to seek assistance from the City's Employee Assistance Program (EAP). EAP visits are provided as a City benefit and are confidential. Any permanent employee who seeks voluntary assistance and requires leave time to participate in a treatment program will be granted sick leave, leave without pay or Family Medical Leave.

Mandatory Referrals for Assistance

An employee who has tested positive for drugs or alcohol and is not dismissed may be required as a condition of continued employment to undergo a drug and alcohol assessment and participate in a treatment program as recommended by the assessing agency.

The City of Clinton respects the right of any employee to refuse assistance for a drug or alcohol problem. However, the City maintains the right and responsibility for taking disciplinary action regarding inadequate job performance and for protecting the public's safety.

Attachment A

SAFETY-SENSITIVE POSITIONS

GENERAL POLICY

Unannounced random testing will be completed on a certain percentage of employees whose positions have been deemed safety sensitive. Employees in safety sensitive positions have a special responsibility to maintain physical and mental fitness for duty at all times while on the job. The simple random sample method is used and all names of the employees holding safety sensitive positions are entered into the pool for random selection. Employees whose names are randomly selected from the pool must be tested just before, during or just after performing job responsibilities. The City of Clinton contracts with a third party administrator to generate the random test list and the Human Resource Director coordinates the random tests.

The following positions are considered safety sensitive and thus subject to random drug testing. Any City position is subject to reasonable suspicion testing. Other positions may be added to this list of safety sensitive positions at any time due to the nature of job assignments or deleted because the assignments of a particular position within a job title that do not fit the safety sensitive criteria.

Under City policy, positions defined as safety-sensitive are:

Safety-sensitive position – A position will be designated safety sensitive only where the City of Clinton has a compelling need, on the basis of safety concerns, to ascertain on-the-job impairment on the part of employees who hold the position. Such a compelling need may arise where the duties of a position create, or are accompanied by, such a great risk of injury to other persons or to property of such magnitude that even a momentary lapse of attention, judgment, or dexterity could have disastrous consequences. Examples of these positions include:

- 1) Positions (full or part-time) requiring the use of weapons (or potential use of weapons) or the operation of vehicles, machinery, or equipment as a primary task (does not include routine office equipment).
- 2) Positions requiring the handling of hazardous materials, the mishandling of which may place the employee, fellow employees, or the general public at risk of serious injury, or the nature of which would create a security risk in the workplace.
- 3) Positions where the incumbent's mental fitness is required to prevent immediate injury to the public or to fellow employees, or to himself/herself.
- 4) Positions working with youth/children and/or required to drive clients.
- 5) Other positions as determined on a case-by-case basis.

SAFETY-SENSITIVE POSITIONS:

Animal Control Officer

Parks Maintenance Supervisor

Athletic Program Assistant
Athletic Program Supervisor
Supervisor
Building Maintenance Worker
Center Program Supervisor
Center Program Assistant
Code Enforcement Officer
Deputy Fire Chief
Equipment Operator
Fire Chief
Fire Captain
Fire Lieutenant
Fire Fighter
Grounds Maintenance Supervisor
Grounds Maintenance Worker
Meter Reader
Laboratory Technician
Mechanic

Parks Maintenance Worker
Assistant Athletic Program
Parks and Recreation Director
Police Chief
Police Captain
Police Investigator
Police Lieutenant
Police Officer
Police Sergeant
Public Works Director
Public Works Supervisor
Street Maintenance Crew Leader
Street Maintenance Worker
Utility Maintenance Supervisor
Utility Maintenance Worker
WWTP Operator
WWTP Supervisor
WTP Operator
WTP Supervisor

Attachment B

GUIDELINES FOR DETERMINING “REASONABLE SUSPICION”

“**Reasonable suspicion**” is defined as the belief, based on the totality of the circumstances, that an employee or applicant is using or has used drugs or alcohol in violation of the City’s policy. This belief will be based upon specific and objective facts and reasonable inferences.

By themselves, the factors below may not be indicative of a problem with drugs or alcohol; however, with strong individual evidence or in combination of several factors, the following may be considered in determining the presence of reasonable suspicion:

- 1) Direct observation of drug use and/or the physical symptoms or manifestations of being under the influence of a drug (e.g., slurred speech, odor of alcohol beverage on body or breath, incoherence, loss of coordination, etc.) while at work.
- 2) Abnormal conduct or erratic behavior while at work such as deterioration in work performance, or participation in physical or verbal altercation, under suspicious conditions (as in 1, above).
- 3) Information from a reliable and credible source or evidence that an employee may be or have been impaired in the performance of his/her duties by recent abuse of alcohol or illegal drugs, whether on or off the job. Attempts should be made to independently corroborate this information. (The Police Department should be contacted in these circumstances, to determine whether there are state or federal

legal implications.)

- 4) Evidence that an employee or applicant has tampered with his/her alcohol or drug test or has attempted to compromise the test sample or the testing process. (Evidence of tampering with or attempting to compromise the test will be considered a positive test and will be grounds for termination.)

Supervisors should be alert to the conduct and job performance of an employee based on the supervisor's long-term knowledge of the employee. In combination with observations of current/contemporaneous conditions, the following may alert the supervisor to be watching for signs of substance abuse:

- 1) A prior history of confirmed substance abuse by the employee during the period of City employment, such as recent convictions of driving while impaired. (Prior history shall not be considered sufficient on its own to constitute reasonable suspicion or present violation of the City's policies.)
- 2) A pattern of excessive absenteeism, tardiness, or deterioration in work performance.
- 3) A pattern of unexplained and unusual vehicle or personal accidents or injuries on or off the job.

RANDOM DRUG TESTING STANDARD PROCEDURE

CITY OF CLINTON

ADMINISTRATIVE MANUAL

Purpose

To provide a standard procedure for supervisors and employees to follow for the random drug testing.

Policy

This standard procedure falls under the Drug and Alcohol Policy effective upon adoption.

General Procedure

- 1) The Human Resource Director will receive the list of employees selected for random testing from Clinton Urgent Care located at 1004 Beaman Street, Clinton, NC 28328.

- 2) The Human Resource Director will notify the department heads of effected employees the day prior to the random testing being conducted. Department heads will not give the employees any notification of the tests.
- 3) Generally, testing will be conducted at the Clinton Urgent Care Center located at 1004 Beaman Street, Clinton, NC 28328. The employee will be transported directly to a collection site by a supervisor. Failure to complete the test as scheduled will result in disciplinary action, up to and including dismissal, unless there is a certified medical reason for not completing the test. Any attempt to alter or manipulate the specimen, control forms, or the testing process will be treated as if a positive test result was obtained.
- 4) The Clinton Urgent Care Center will contact the Human Resource Director to provide the test results.
- 5) If the test results are positive, the Human Resource Director will contact the department head and City Manager to inform them of the results and initiate disciplinary action. Test results are not official until received from the Human Resource Director. If the test results are negative, the Human Resource Director will document the results. If the alcohol test result is .02 through .0399, the Human Resource Director will document the result and will notify the department head and City Manager. The employee will be placed on disciplinary suspension without pay for twenty-four (24) hours (8 work hours). Other disciplinary action may result depending on the history and circumstances of the test and Employee. The Human Resource Director will compile and maintain all required records.

REASONABLE SUSPICION – DRUG TESTING STANDARD PROCEDURE

CITY OF CLINTON

ADMINISTRATIVE MANUAL

Purpose

To provide a standard procedure for supervisors to follow when they have reasonable suspicion that a department employee may be under the influence of drugs or alcohol.

Policy

This standard procedure falls under the Drug and Alcohol Policy effective upon adoption.

General Procedure

- 1) The supervisor, department head, or City official will, upon reasonable suspicion of controlled substances abuse or alcohol misuse, talk with the employee about his/her behavior and advise him/her that he/she does not appear to be “ready for duty”. Point out the behaviors that concern you. Do not accuse him/her of controlled substances abuse or alcohol misuse. It is advisable to have a “third party” (Human Resource Director, department head, or City Manager) as a witness to the conference. Utilize behavioral indicators which consist of what the witness sees the employee do, hears the employee say, or any changes in the employee’s appearance or body odor. Feel free to seek guidance from the Human Resource Director and the EAP.
- 2) The supervisor, department head, or City official will transport the employee to Clinton Urgent Care Center site to have the appropriate testing completed.
- 3) The supervisor, department head, or City official will assist the employee in making arrangements to have someone else drive him/her home following the testing. A suspected controlled substance user or alcohol abuser should not drive him/herself home. If he/she refuses to allow someone else to drive, explain that you will notify the proper authorities that he/she is possibly impaired and should not be driving.
- 4) The supervisor, department head, or City official will use the Observed Behavior - Reasonable Suspicion Record to document the incident. The documentation shall be done immediately and no later than twenty-four (24) hours after the events leading up to and including action taken by the supervisor, department head or City official. Include date, time and specific behaviors observed. Forward this documentation to the Human Resource Director in a sealed envelope marked confidential.
- 5) The Clinton Urgent Care Center will contact the Human Resource Director to provide the test results. While the City is awaiting test results, the employee will be placed on administrative leave without pay.
- 6) If the test results are positive, the Human Resource Director will contact the department head and City Manager to inform them of the results and initiate disciplinary action. Test results are not official until received from the Human Resource Director.

If the test results are negative, the Human Resource Director will document the test results and immediately contact the department head who will notify the employee to return to work immediately. The successful completion of a controlled substance and alcohol test does not bar any other disciplinary or administrative actions deemed appropriate by the supervisor or department in relation to the incident. The Human Resource Director will compile and maintain all required records.

Section 9. Workplace Violence

Violence by city employees or anyone else against an employee or visitor on City property will not be tolerated.

All employees are responsible for helping assure that workplace violence incidents are avoided in the workplace. If you receive, overhear or become aware of any threatening communications from an employee or outside third party, you must report it to your supervisor, department head, or the City Manager immediately. Your failure to report such conduct or to fully cooperate in the City's investigation of such conduct could result in disciplinary action.

Do not engage in or encourage another employee to engage in either physical or verbal confrontation with a potentially violent individual. If you encounter any individual who is threatening immediate harm to you or any other person, contact the police immediately.

All reports of work-related threats will be investigated and kept confidential to the extent possible.

The City reserves the right to seek a civil "no-contact" order in accordance with the provisions of the North Carolina General Statutes on behalf of any employee who has been the victim or target of workplace violence or other unlawful conduct in the workplace in violation of this policy.

Violations of this policy against workplace violence will subject an employee to disciplinary action up to and including immediate dismissal.

(Adopted 2006, May 1)

Section 10. Harassment

Harassment on the basis of race, color, religion, gender, national origin, age or disability constitutes discrimination. The City opposes harassment by supervisors and employees of the City in any form. Harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, gender, national origin, age, or disability or that of his/her relatives, friends, or associates.

The City opposes sexual harassment by supervisors and co-workers in any form. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when

- 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- 2) Submission to or rejection of such conduct by an individual is used as the basis for

employment decisions affecting such individual; or

- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Any employee who believes that he or she may have a complaint of sexual harassment may follow the Grievance Procedure described in this Policy or may file the complaint directly with the City Manager, Human Resource Director, or any department head who will advise the Human Resource Director of the complaint. The Human Resource Director will insure that an investigation is conducted into any allegation of sexual harassment and advise the employee and appropriate management officials of the outcome of the investigation.

ARTICLE X. GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL

Section 1. Policy

It is the policy of the City to provide a just procedure for the presentation, consideration, and disposition of employee grievances. The purpose of this article is to outline the procedure and to assure all employees that a response to their complaints and grievances will be prompt and fair.

Employees utilizing the grievance procedures shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under this policy. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal from City service.

Attorneys will not be allowed to participate at any step in the process.

Section 2. Grievance Defined

A grievance is a claim or complaint by an employee based upon an event or condition, which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

Section 3. Purposes of the Grievance Procedure

The purposes of the grievance procedure include, but are not limited to:

- 1) Providing employees with a procedure by which their complaints can be considered promptly, fairly, and without reprisal;
- 2) Encouraging employees to express themselves about the conditions of work

which affect them as employees;

- 3) Promoting better understanding of policies, practices, and procedures which affect employees;
- 4) Increasing employees' confidence that personnel actions taken are in accordance with established, fair, and uniform policies and procedures; and
- 5) Increasing the sense of responsibility exercised by supervisors in dealing with their employees.

Section 4. Procedure

All employees, including supervisors and department heads, are expected to discuss their problems and misunderstandings with their supervisors. Open, two-way communication is a proven factor in reducing and resolving grievances.

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved.

Step 1: Informal Discussion with Supervisor - An employee who feels he/she has a grievance shall first discuss his/her problem with his/her immediate supervisor and seek to resolve it. The employee must tell the supervisor about the grievance as soon as possible but no later than five (5) workdays of the event or within five (5) workdays of learning of the event or condition. Either the employee or the supervisor may involve the Human Resource Director as a resource to help resolve the grievance. It is a supervisory responsibility to encourage employees to talk openly about his/her problem so as to promote understanding. Most misunderstandings will be clarified and resolved during a free exchange of viewpoints.

The supervisor should, and is encouraged to, consult with any employee of the City in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

The response from the supervisor for each step in the formal grievance process shall be in writing and signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The responder at each step shall send copies of the grievance and response to the Human Resource Director.

The supervisor shall document the decision with the employee within eight (8) workdays

of the event or date employee was informed of the event.

Step 2: Appeal to Department Head - If the grievance is not resolved to the satisfaction of the employee by the supervisor, the employee may appeal, in writing requesting a hearing, to the next level of supervisor (department head or City Manager) within five (5) workdays after receipt of the response from Step 1. The next level supervisor shall notify the employee and immediate supervisor of a date and time for the hearing which will be no later than fifteen (15) workdays after the event or of learning of the event or condition. Written documentation stating the determination of decision will be provided to the employee within seven (7) calendar days after receipt of the appeal.

Step 3: Appeal to City Manager - If the grievance is not resolved to the satisfaction of the employee at the end of Step 2, the employee may appeal, in writing, to the City Manager within seven (7) calendar days after receipt of the response from Step 2. The City Manager shall respond to the appeal, stating the determination of decision within seven (7) calendar days after receipt of the appeal. The City Manager's decision shall be the final decision. The City Manager would notify the City Council of any impending legal action. During this appeal, the employee is permitted to bring three (3) individuals to speak on his/her behalf.

Section 5. Role of the Human Resource Director

Throughout the grievance procedure, the roles of the Human Resource Director shall be as follows:

- 1) To advise parties (including employee, supervisors, and City Manager) of their rights and responsibilities under this policy, including interpreting the grievance and other policies for consistency of application;
- 2) To be a clearinghouse for information and decisions in the matter including maintaining files of all grievance documents.
- 3) To give notices to parties concerning timetables of the process, etc.;
- 4) To assist employees and supervisors in drafting statements; and
- 5) To facilitate the resolution of conflicts in the procedures or of the grievance at any step in the process.

The City Manager shall determine whether or not additional time shall be allowed to either side in unusual circumstances if the parties cannot agree upon extensions when needed or indicated.

Section 6. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant, believes that any employment action discriminates illegally (i.e., is based on age, sex, race, color, national origin, religion, creed, political affiliation, marital or non-job related handicap), he/she has the right to appeal such action using the grievance procedure outlined in this Article (Section 4 above). While such persons are encouraged to use the grievance procedure, they shall also have the right to appeal directly to the City Manager. Employment actions subject to appeal because of discrimination include promotion, training, classification, pay, disciplinary action, transfer, layoff, failure to hire, or termination of employment. An employee or applicant should appeal an alleged act of discrimination within thirty (30) calendar days of the alleged discriminatory action, but may appeal for up to six (6) months following the action.

ARTICLE XI. PERSONNEL RECORDS AND REPORTS

Section 1. Public Information

In compliance with GS 160A-168, the following information with respect to each City employee is a matter of public record: name, age, date of original employment or appointment to the service, current position title, current salary, date and amount of the most recent increase or decrease in salary, date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the City may adopt.

Section 2. Access to Confidential Records

All information contained in a City employee's personnel file, other than the information mentioned above is confidential and shall be open to inspection only in the following instances:

- 1) The employee or his/her duly authorized agent may examine all portions of his/her personnel file except letters of reference solicited prior to employment, and information concerning a medical disability, mental or physical, that a prudent physician would not divulge to the patient.
- 2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- 3) A City employee having supervisory authority over the employee may examine all material in the employee's personnel file.

- 4) By order of a court of competent jurisdiction, any person may examine all material in the employee's personnel file.
- 5) An official of an agency of the State or Federal Government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the City Manager to be necessary and essential to the pursuit of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of the personnel records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- 6) An employee may sign a written release to be placed in his/her personnel file that permits the record custodian to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- 7) The City Manager, with the concurrence of the City Council, may inform any person of the employment, non-employment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a City employee, and the reasons for that action. Before releasing that information, the City Manager shall determine in writing that the release is essential to maintaining the level and quality of City services. The written determination shall be retained in the City Manager's office, is a record for public inspection, and shall become a part of the employee's personnel file.

Section 3. Personnel Actions

The Human Resource Director, with the approval of the City Manager, will prescribe necessary forms and reports for all personnel actions and will retain records necessary for the proper administration of the personnel system. The official personnel files are those which are maintained by the City Clerk's Office. These files shall contain documents such as employment applications and related materials, records of personnel actions, documentation of employee warnings, disciplinary actions, performance evaluations, retirement and insurance records, letters of recommendation, and other personnel-related documents.

Section 4. Records of Former Employees

The provisions for access to records apply to former employees as they apply to present employees.

Section 5. Remedies of Employees Objecting to Material in File

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

Section 6. Penalties for Permitting Access to Confidential Records

Section 160A-168 of the General Statutes provides that any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by the designated custodian, is guilty of a misdemeanor and upon conviction shall be fined in an amount consistent with the General Statutes.

Section 7. Examining and/or Copying Confidential Material without Authorization

Section 160A-168 of the General Statutes of North Carolina provides that any person, not specifically authorized to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined consistent with the General Statutes.

Section 8. Destruction of Records Regulated

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5, without the consent of the State Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys it will be guilty of a misdemeanor and upon conviction will be fined in an amount provided in Chapter 132-3 of the General Statutes.

ARTICLE XII. IMPLEMENTATION OF POLICIES

Section 1. Conflicting Policies Repealed

All policies, ordinances, or resolutions that conflict with the provisions of these policies are hereby repealed.

Section 2. Separability

If any provision of these policies or any rule, regulation, or order thereunder of the application of such provision to any person or circumstances is held invalid, the remainder of these policies and the application of such remaining provisions of these policies of such rules, regulations, or orders to persons or circumstances other than those held invalid will not be affected thereby.

Section 3. Effective Date

These policies shall become effective on a date approved by the City Council.

APPENDIX A

GENERAL STATUTES OF NORTH CAROLINA

Article 7. Administrative Offices Part 4. Personnel

G. S. 160A-168. Privacy of Employee Personnel Records

- 1) Notwithstanding the provisions of G. S. 132-6 or any other general law or local act concerning access to public records, personnel files maintained by a City are subject to inspection and may be disclosed only as provided by this section.
- 2) The following information with respect to each City employee is a matter of public record: name, age, date of original employment or appointment to the service; current position title; current salary; date and amount of the most recent increase or decrease in salary; date of the most recent promotion, demotion, transfer, suspension, separation, or other change in position classification; and the office to which the employee is currently assigned. The City Council shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the City Council may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.
- 3) All information contained in a City employee's personnel file, other than the information made public by subsection (2) of this section, is confidential and shall be open to inspection only in the following instances:
 - a. The employee or his/her duly authorized agent may examine all portions of his/her personnel file except (i) letter of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
 - b. A licensed physician designated in writing by the employee may examine the employee's medical record.
 - c. A City employee having supervisory authority over the employee may examine all material in the employee's personnel file.
 - d. By order of a court of competent jurisdiction, any person may examine such

portion of an employee's personnel file as may be ordered by the court.

- e. An official of an agency of the State or Federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution (of the employee), or for the purpose of assisting in an investigation of (the employee's) tax liability.
- 4) The City Council of a City that maintains personnel files containing information other than the information mentioned in subsection (2) of this section shall establish procedures whereby an employee who objects to material in his/her file on grounds that it is inaccurate or misleading may seek to have the material removed from the file or may place in the file a statement relating to the material.
- 5) Any public official or employee who knowingly and willfully permits any person to have access to any confidential information contained in an employee personnel file, except as expressly authorized by this section, is guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed five hundred dollars (\$500.00).
- 6) Any person, not specifically authorized by this section to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a misdemeanor and upon conviction shall be fined in the discretion of the court but not in excess of five hundred dollars (\$500.00). (1975, c. 701, s.2)

APPENDIX B AFFIRMATIVE ACTION PLAN

Affirmative Action Plan Resolution

WHEREAS, the City Council of the City of Clinton has determined that an affirmative action plan should be initiate; and

WHEREAS, it has been determined that it should be the policy of the City of Clinton to provide equal opportunity employment for all persons, to prohibit discrimination in employment because of race, color, religion, age, sex, or national origin and to promote the full realization of equal employment opportunity through a continuing affirmative action program throughout the City; and

WHEREAS, this policy will be an integral part of every aspect of the City personnel policy and practice in the employment, development, advancement and treatment of employees;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of Clinton, in council assembled, that the City of Clinton hereby adopts an affirmative action plan providing equal opportunity employment for all persons, a copy of which plan is attached hereto and incorporated herein by the reference.

Resolved in City Council this 6th day of June, 1978.

The Affirmative Action Plan

- 1) **Affirmative Action Defined** The Equal Employment Opportunity Act of 1972 amended Title VII of the 1964 Civil Rights Act to extend anti-discrimination provisions to state and local governments and labor organizations with fifteen (15) or more employees and public and private employment agencies. It broadened the enforcement powers of EEOC and created an Equal Employment Coordinating Council (composed of the Secretary of Labor, the Attorney General and the Chairman of CSC, EEOC and the U.S. Commission on Civil Rights) to promote efficiency and eliminate conflict among federal agencies in equal employment opportunity policies. Title VII makes it unlawful to discriminate in employment because of race, color, creed, religion, sex, or national origin.

- 2) **Policy** It is the policy of the City of Clinton, North Carolina to provide equal opportunity employment for all persons, to prohibit discrimination in employment because of race, color, religion, age, sex or national origin and to promote the full realization of equal employment opportunity throughout the City. This policy will be an integral part of every aspect of the City's personnel policy and practice in

the employment, development, advancement and treatment of employees.

3) **Objectives** The objectives of the Affirmative Action Plan are:

- a. To establish responsibility for and providing guidelines for implementation and conduct of the City of Clinton, North Carolina Affirmative Action Program.
- b. To establish realistic program goals, a career development program, and to develop and maintain a vigorous recruitment program for the Affirmative Action Program.
- c. To obtain statistical information from City departments, to evaluate and analyze their needs.
- d. To evaluate personnel practices and selection processes that are discriminatory or place artificial barriers to the employment of minorities and women. Evaluations of all personnel procedures will include and emphasize the critical and unique employment problems faced by minorities and women.
- e. To implement and maintain an informational program for City employees and the general public on the City's Affirmative Action Program.
- f. The long-range goal of the City is to achieve equitable representation of minorities and women at all job levels of City employment and in specific occupational areas that will be consistent with both population parity and/or available work force.

4) **Responsibilities.** The responsibilities of the administrative branch are explained below:

a. **City Manager**

- (1) The City Manager shall be responsible for the administration of the City's Affirmative Action Program as it relates to the employment, training and promotion of minorities and women.
- (2) Establish, administer and provide policy direction for the Affirmative Action Program so that equal employment opportunities exist in each department in all classifications.
- (3) Formulate and disseminate directives to department heads to develop Affirmative Action goals and timetables. The directive will

instruct department heads to make complete analysis of their work forces to determine areas which fall below desirable program levels. Develop training programs designed to facilitate career advancements for minorities and women.

- (4) The City Manager will assure that department heads comply with the goals and objectives of the Affirmative Action Plan.

b. **Personnel Officer/Affirmative Action Officer**

- (1) Establish a special recruitment program, conduct recruitment and orientation among women and in minority group communities, and develop regular communication channels with minority neighborhoods to assure that employment opportunity information is widely disseminated.
- (2) Analyze testing procedures and all other aspects of the recruitment and certification process to insure that artificial barriers to hiring minority and women applicants or promoting minority and women employees are eliminated.
- (3) Recommend policy changes to the City Manager, Mayor and City Council.
- (4) Analyze and remove artificial barriers in class specifications which discriminate against women and actively recruit women to apply for classifications which have been traditionally occupied by men.

c. **Duties and Responsibilities of AAO/Personnel Officer**

- (1) Shall be responsible for the implementation of the Affirmative Action Plan.
- (2) The City's Affirmative Action Officer will advise the City Manager on matters that relate to accomplishing the goals and objectives of the Affirmative Action Program and will assist the City Manager in interpreting the goals of the program to management, minority groups and women.
- (3) Shall prepare reports which reflect the status and level of commitment to the provisions of the Affirmative Action Plan by departments.
- (4) Shall assist City and department heads in establishing realistic

goals and guidelines essential to attainment of the objectives of the City's Affirmative Action Plan and periodically review them to insure that policy goals are met.

- (5) Shall confer with department heads to determine basis for under-utilization of women and minorities, and if such exist, request and recommend corrective action.
- (6) Shall review recruitment, selection, testing and promotional practices and identify actions needed to eliminate discriminatory and artificial barriers.
- (7) Shall conduct recruitment efforts in school – both at the academic and vocational levels.
- (8) Shall conduct meetings of the Departmental Affirmative Action Officers to determine the status of the Department Affirmative Action Programs.
- (9) Shall evaluate the effectiveness of Departmental Affirmative Action efforts periodically and make quarterly written reports to the City Manager.
- (10) Shall provide copies of the Affirmative Action Plan to the City Manager, Mayor, City Council, department heads and interested employees.
- (11) Will coordinate the development and implementation of a public information program designed to create understanding and support of the City's Affirmative Action Program with the public and City employees.

d. **Department Heads.**

- (1) Pledge himself/herself to the objectives of this program by adopting a positive attitude with visible manifestations of their commitment to equal opportunity on the part of City leadership.
- (2) Develop a Departmental Affirmative Action Program and submit it to the City's Affirmative Action Officer for approval.
- (3) Will be responsible for all aspects of the City's Affirmative Action Program as it applies to their departments.

- (4) Will appoint a Department Affirmative Action Officer. To assure that the program receives top-level emphasis, this individual may be either the department head himself/herself or a responsible person who reports directly to the department head.
- (5) In cooperation with the City's Affirmative Action Officer, will develop and implement a Department Affirmative Action Plan which will include goals and timetables.
- (6) Will seek to ensure that supervisors and staff fully understand the Affirmative Action Plan.
- (7) Develop and implement training and promotional programs within his/her department.

e. **Department Affirmative Action Officers**

- (1) Will prepare the Department Affirmative Action Plan. This plan will consist of at least two (2) sections. The first will present a statistical presentation of the existing department work force and numeric minority employment goals through a five (5) year projection. The second will consist of a narrative identifying deficiencies and problems with an outline of recommended corrective actions. The Plan will be submitted to the City's Affirmative Action Officer within sixty (60) days after the adoption of this Plan.
- (2) Will conduct a continuing information program which will assure that all department employees are familiar with and in support of the Department Affirmative Action Plan and its objectives.
- (3) Will administer the Plan and keep the department head informed of the status of the Plan, its problem areas and required corrective action.
- (4) Will cooperate with the City's Affirmative Action Officer and the City Personnel Department to assist them in aggressively seeking qualified minorities and women for all job levels, including professional, supervisory and management positions.
- (5) Will identify and recommend to the City Personnel Department job classifications in which restructuring is desirable and provide technical assistance in establishing new career ladders.

- (6) Will submit monthly report to the City's Affirmative Action Officer through his/her department head showing personnel hired, existing and predicted vacancies, promotions made and anticipated, dismissals, and such other data as may be required by the City's Affirmative Action Officer.
- (7) Will assist in identifying positions which may require special employment skills.
- (8) Will assist in the orientation of supervisors on newly devised procedures for selecting personnel to meet minority under utilization needs.

5) **Establishment of Departmental Plans** The departmental plans are established by the following ways:

a. **Department Affirmative Action Plans**

- (1) Will identify obstacles which have barred members of minority and women's groups from employment or advancement at the departmental level.
- (2) Will include both yearly and long-range goals and timetables for achieving appropriate representation of women and minorities within their department.

b. **Departmental Goals**

- (1) Should be significant, measurable and attainable, and be designed to correct identifiable deficiencies.
- (2) Should provide for specific planned results with timetables for completion.
- (3) Should take into consideration plans for expansion and turnover of the work force with the presumption that qualified or qualifiable minorities and women are in the area work force.
- (4) Should reflect desired levels of achievement based upon an analysis to resolve imbalance in its work force.
- (5) Should be coupled with adoption of genuine and effective internal techniques and procedures to locate qualified members of women and minorities.

c. **Departmental Timetables**

- (1) Departmental plans should be submitted within sixty (60) days after the adoption of the City's Affirmative Action Plan.
- (2) The City's Affirmative Action Plan is predicted on a five (5) year goal. Therefore, department's first year goals should have 15% completion; second year, 35% completion; third year, 55% completion; fourth year, 75% completion; and fifth year, 100% completion.

6) **Recruitment** Recruitment is handled in the following manner:

- a. Establishment of an aggressive recruitment program to attract minorities and women is primarily the responsibility of the Personnel Department.
- b. Methods utilized in carrying out recruiting efforts shall be expanded to include, but not limited to, the following:
 - (1) Dissemination of notices of City job openings to minority group organizations serving the minority community.
 - (2) Maintain a mailing list with minority organizations, women's groups, educational institutes, and other related agencies that direct themselves to the employment of minorities and women.
 - (3) Establish cooperative working relationships with Manpower Programs operating within the community.
 - (4) Establish communication and cooperative working relationships between the City's Affirmative Action Officer and leaders of women's and minority organizations in the community.
 - (5) Solicit and obtain recruiting assistance from women and minority organizations in the community.
 - (6) Establish and maintain continuing recruitment programs with high schools and colleges that have large number of minority and female students.
 - (7) Utilize the news media as a form of communication in areas where there are large minority audiences.

7) **Test and Selection Process** The testing and selection process is explained below:

- a. Pre-employment written and performance tests, when utilized, will be reviewed to assure that they are job related and culturally unbiased.
- b. Employment Standards:
 - (1) All hiring standards used in this selection process, such as heights, weights, educations levels, previous work experience or other standards, will be realistically related to job requirements and will be reduced to writing.
 - (2) City employment standards shall not be higher than need to perform the duties and responsibilities of the job to be performed.
- c. Employees will be encouraged to participate in developmental programs sponsored by the City or other governmental or community agencies to qualify for upward mobility.

8) **Training Programs and Career Educations** The development of training programs and career education programs are explained in the following:

- a. The City shall develop training programs and support career education programs which provide academic and job skills to their permanent employees. This training will include upward job mobility from the entry level to the para-professional positions.
- b. Employee training should be related to the job class or duties to which assigned.
- c. Subject to budget limitations, present City policies, and department head approval, efforts will be made to afford employees time off from work to attend related training and educational services.
- d. Cooperate with agencies to develop meaningful training curriculum relevant to employment with the City.
- e. Subject to present City policy, financial reimbursement, including tuition and books, shall be considered for personnel in entry level and para-professional positions for approved relevant programs at college or training institutions.
- f. Supervisors and training officers shall provide career counseling to minority and women employees and shall recommend and encourage

their attendance to relevant in-service training and educational programs which will prepare and assist them in securing job advancement.

- 9) **General Policy** The City Equal Employment Opportunity Policy shall be posted on all City departmental bulletin boards.

APPENDIX C SPECIAL SEPARATION ALLOWANCE POLICY

Purpose

North Carolina General Statutes 143-166.41 and 143-166.42 set forth conditions regarding special separation allowance for law enforcement officers. In accordance with these laws, the City of Clinton will use this policy for guidance regarding payment of any special separation allowance for law enforcement officers.

Qualifications for Separation Allowance

To qualify for payment of the special separation allowance, a retiring sworn law enforcement officer must have:

- 1) Thirty (30) or more years of creditable service with the Local Government Employee's Retirement System or

(Adopted by City Council on November 4, 2009.)

- 2) Have attained fifty-five (55) years of age with at least five (5) years of creditable service and meet the following conditions:
 - a. Served as least five (5) continuous years of service as a sworn law enforcement officer immediately preceding retirement;
 - b. Served at least fifty percent (50%) of the creditable service as a sworn law enforcement officer;
 - c. Is under the age of sixty-two (62).

"Creditable service" is service for which credit is allowed under the retirement system of which the officer is a member. Accrued sick leave may also be applied as creditable service time in accordance with guidelines set forth by the NC Retirement System. Accrued vacation time does not qualify as creditable service for the purposes of this policy.

Calculation of Separation Allowance

The following calculation provided by N.C. G.S. 143-166.41(a) is used to calculate special separation allowance: an annual separation allowance is equal to .85 percent of the annual equivalent of the most recent applicable base rate of compensation for creditable service. The allowance will be paid in equal installments according to the

payroll frequency in use by the City. The monthly distribution amount will be paid starting with the first payroll in the month in which the employee's retirement becomes effective.

$$\frac{\text{Annual Compensation} \times .0085 \times \text{Years of Creditable Service}}{12} = \$\text{Monthly Distribution}$$

Cessation of Separation Allowance

The special separation allowance payments will cease upon any of the following:

- 1) Last day of the month in which the employee reaches age sixty-two (62);
- 2) Death;
- 3) Acceptance of re-employment in any position with the City of Clinton, except in the interest of public safety where the retiree is working in a contract or temporary reserve officer basis or related capacity and the position does not require participation in the NC retirement system;
- 4) Acceptance of reemployment by a local government employer in any capacity.*

* Local government employer shall be defined as an employer that is eligible to participate in the Local Government Employee's Retirement System.

(Adopted by City Council November 4, 2009.)

This policy is effective for all law enforcement officers who retire as of July 1, 2008.